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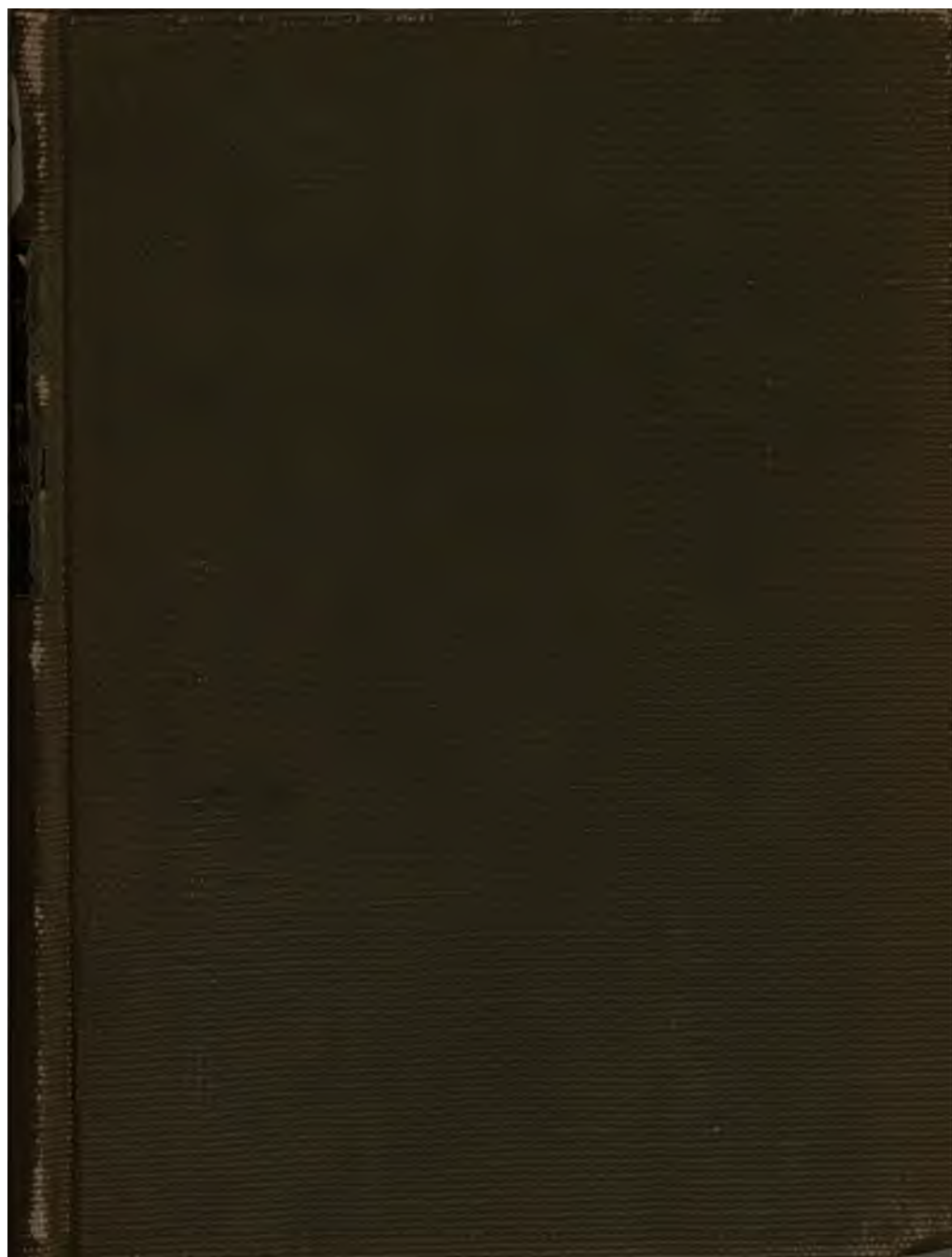
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CALIFORNIA LAWS  
OF INTEREST TO  
WOMEN AND CHILDREN

1917

Compiled by  
The California State Library

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CALIFORNIA STATE PRINTING OFFICE  
SACRAMENTO  
1918

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## PREFACE.

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This publication is a revision of a compilation of California laws relating to women and children which was issued by the California State Library in 1912 and brought up to date by supplements in 1914 and 1916. The original edition was prepared because of the interest in this body of the law following the advent of woman suffrage. The compilation, in addition to fulfilling this need, has come into general use as a manual for judicial and administrative officials and a text for various civil service examinations.

The large number of laws relating to education and health which could have been included consistently herein have been omitted because of special compilations on these subjects. Except for the fundamental compulsory education law, the field covered by "School Law of California," issued by the Superintendent of Public Instruction, has been practically untouched. Similarly, little duplication is made of the subject matter in "General Health Laws," issued by the State Board of Health.

The extracts in this book are arranged numerically under the codes. The Civil Code contains the law covering the rights and duties of the individual, and the Code of Civil Procedure, the law which shows how those rights may be enforced. The nature of the Penal Code is indicated sufficiently from its title. The Political Code contains that body of the law which defines the rights, powers and duties of the state, its subdivisions and its officers.

No comments, notes or citations to cases have been given, as all these things may be found in the complete codes of California, copies of which are, or ought to be, accessible in every public library in the state.

The State Library stands ready at all times to answer inquiries regarding the laws of the state and will aid in furnishing information regarding Federal laws and the laws of other states relating to women and children.

CALIFORNIA STATE LIBRARY,  
*Sacramento, November 1, 1917.*





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# FROM THE CONSTITUTION.

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## ARTICLE II.

### Who are entitled to vote.

SECTION 1. Every native citizen of the United States, every person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been resident of the state one year next preceding the election, and of the county in which he or she claims his or her vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; *provided*, no native of China, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of the embezzlement or misappropriation of public money, and no person who shall not be able to read the constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this state; *provided*, that the provisions of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age and upwards at the time this amendment shall take effect. [Amendment adopted October 10, 1911.]

## ARTICLE IV.

### Support of orphans, abandoned children, or aged persons.

SEC. 22. No money shall be drawn from the treasury but in consequence of appropriations made by law, and upon warrants duly drawn thereon by the controller; and no money shall ever be appropriated or drawn from the state treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the state as a state institution, nor shall any grant or donation of property ever be made thereto by the state; *provided*, that notwithstanding anything contained in this or any other section of this constitution, the legislature shall have the power to grant aid to the institutions conducted for the support and maintenance of minor orphans, or half-orphans, or abandoned children, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; *provided, further*, that the state shall have at any time the right to inquire into the management of such institution; *provided, further*, that whenever any county, or city and county, or city, or town, shall provide for the support of mi<sup>r</sup>

orphans, or half-orphans, or abandoned children, or aged persons in indigent circumstances, such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church or other control. \* \* \* [Amendment adopted November 8, 1910. The above provisions were in the constitution of 1879 and were changed only slightly by the 1910 amendment, which related to other subjects.]

#### **Local and special laws prohibited.**

SEC. 25. The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

\* \* \* \* \*

*Fifth*—Granting divorces.

*Sixth*—Changing the names of persons or places.

\* \* \* \* \*

*Twelfth*—Affecting estates of deceased persons, minors, or other persons under legal disabilities.

\* \* \* \* \*

*Fourteenth*—Giving effect to invalid deeds, wills, or other instruments.

\* \* \* \* \*

*Seventeenth*—Declaring any person of age, or authorizing any minor to sell, lease, or incumber his or her property.

\* \* \* \* \*

*Twenty-seventh*—Providing for the management of common schools.

\* \* \* \* \*

*Thirtieth*—Changing the law of descent or succession.

*Thirty-first*—Authorizing the adoption or legitimation of children.

\* \* \* \* \*

#### **ARTICLE XX.**

#### **Marriage contracts, validity of.**

SEC. 7. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

#### **Separate property.**

SEC. 8. All property, real and personal, owned by either husband or wife, before marriage, and that acquired by either of them afterwards by gift, devise, or descent, shall be their separate property.

#### **Minimum wage for women and minors.**

Section 174. The legislature may, by appropriate legislation, provide for the establishment of a minimum wage for women and minors and may provide for the comfort, health, safety and general welfare of any and all

employees. No provision of this constitution shall be construed as a limitation upon the authority of the legislature to confer upon any commission now or hereafter created, such power and authority as the legislature may deem requisite to carry out the provisions of this section. [New section adopted November 3, 1914.]

**Businesses and professions open to women.**

SEC. 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

# CIVIL CODE.

## PERSONS.

### Minors, who are.

#### § 25. Minors are:

1. Males under twenty-one years of age;
2. Females under eighteen years of age.

### Periods of minority, how calculated.

§ 26. The periods specified in the preceding section must be calculated from the first minute of the day on which persons are born to the same minute of the corresponding day completing the period of minority.

### Adults, who are.

§ 27. All other persons are adults.

### Unborn child.

§ 29. A child conceived, but not yet born, is to be deemed an existing person, so far as may be necessary for its interests in the event of its subsequent birth.

### Custody of minors.

§ 32. The custody of minors and persons of unsound mind is regulated by Part III of this division (*i. e.* § 55-276).

### Minors can not give a delegation of power.

§ 33. A minor can not [1] give a delegation of power, nor under the age of eighteen, [2] make a contract relating to [a] real property, or [b] any interest therein, or [c] relating to any personal property not in his immediate possession or control. [Amended, Code Amdts. 1873-74, p. 182.]

### Contracts by minors made; disaffirmance.

§ 34. A minor may make any other contract than as above specified, in the same manner as an adult, subject only [1] to his power of disaffirmance under the provisions of this title, and subject [2] to the provisions of the titles on [a] marriage, and on [b] master and servant. [Amended, Code Amdts. 1873 74, p. 183.]

### When minors may disaffirm.

§ 35. In all cases other than those specified in sections thirty-six and thirty-seven, the contract of a minor, if made whilst he is under the age of eighteen, may be disaffirmed [1] by the minor himself,

either before his majority or within a reasonable time afterwards; or, in case of his death within that period, [2] by his heirs or personal representatives; and if the contract be made by the minor whilst he is over the age of eighteen, it may be disaffirmed in like manner upon restoring the consideration to the party from whom it was received, or paying its equivalent. [Amended, Code Amdts. 1873-74, p. 183.]

**NOTE.**—The Civil Code was enacted as a whole March 21, 1872. Sections which have been enacted or amended since that time are followed by date of enactment or amendment.

#### **Can not disaffirm contract for necessities.**

§ 36. A minor can not disaffirm a contract, otherwise valid, to pay the reasonable value of things necessary for his support, or that of his family, entered into by him when not under the care of a parent or guardian able to provide for him or them. [Amended, Code Amdts. 1873-74, p. 183.]

#### **Nor certain obligations.**

§ 37. A minor can not disaffirm an obligation, otherwise valid, entered into by him under the express authority or direction of a statute.

#### **Minors liable for wrongs.**

§ 41. A minor, or person of unsound mind, of whatever degree, is civilly liable for a wrong done by him, but is not liable in exemplary damages unless at the time of the act he was capable of knowing that it was wrongful.

#### **Minors may enforce their rights.**

§ 42. A minor may enforce his rights by civil action, or other legal proceedings, in the same manner as a person of full age, except that a guardian must conduct the same.

### **PERSONAL RIGHTS.**

#### **General personal rights.**

§ 43. Besides the personal rights mentioned or recognized in the Political Code, every person has, subject to the qualifications and restrictions provided by law, the right of protection [1] from bodily restraint or harm, [2] from personal insult, [3] from defamation, and [4] from injury to his personal relations.

#### **Defamation.**

§ 44. Defamation is effected by:

1. Libel;
2. Slander.



**Libel.**

§ 45. Libel is a false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation to the eye, which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation.

**Slander.**

§ 46. Slander is a false and unprivileged publication other than libel, which:

1. Charges any person with crime, or with having been indicted, convicted, or punished for crime;
2. Imputes in him the present existence of an infectious, contagious, or loathsome disease;
3. Tends directly to injure him in respect to his office, profession, trade, or business, either by imputing to him general disqualification in those respects which the office or other occupation peculiarly requires, or by imputing something with reference to his office, profession, trade, or business that has a natural tendency to lessen its profit;
4. Imputes to him impotence or a want of chastity; or,
5. Which, by natural consequence, causes actual damage.

**Privileged publication, is what.**

§ 47. A privileged publication is one made—

1. In the proper discharge of an official duty.
2. In any legislative or judicial proceeding, or in any other official proceeding authorized by law.
3. In a communication, without malice, to a person interested therein, [1] by one who is also interested, or [2] by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or [3] who is requested by the person interested to give the information.
4. By a fair and true report, without malice, in a public journal, of a judicial, legislative, or other public official proceeding, or of anything said in the course thereof, or of a verified charge or complaint made by any person to a public official, upon which complaint a warrant shall have been issued.
5. By a fair and true report, without malice, of the proceedings of a public meeting, if such meeting was lawfully convened for a lawful purpose and open to the public, or the publication of the matter complained of was for the public benefit. [Amended, Statutes 1895, p. 167.]

**Malice not inferred.**

§ 48. In the cases provided for in subdivisions three, four, and five, of the preceding section, malice is not inferred from the communication or publication. [Amended, Statutes 1895, p. 167.]

### **Protection of personal relations.**

**§ 49.** The rights of personal relations forbid:

1. The abduction of a husband from his wife, or of a parent from his child.
2. The abduction or enticement of a wife from her husband, or a child from a parent, or from a guardian entitled to its custody.
3. The seduction of a wife, daughter, orphan sister, or servant.
4. Any injury to a servant which affects his ability to serve his master. [Amended, Statutes 1905, p. 68.]

### **Right to use force.**

**§ 50.** Any necessary force may be used to protect from wrongful injury the person or property of one's self, or of a wife, husband, child, parent, or other relative, or member of one's family, or of a ward, servant, master or guest. [Amended, Code Amdts. 1873-74, p. 184.]

### **In places of public accommodation or amusement.**

**§ 51.** All citizens within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities, and privileges of inns, restaurants, hotels, eating-houses, barber-shops, bath-houses, theaters, skating-rinks, and all other places of public accommodation or amusement, subject only to the conditions and limitations established by law and applicable alike to all citizens. [Enacted, Statutes 1905, p. 553.]

### **Damages recoverable.**

**§ 52.** Whoever violates any of the provisions of the last preceding section [1] by denying to any citizen, except for reasons applicable alike to every race or color, the full accommodations, advantages, facilities, and privileges in said section enumerated, or [2] by aiding or inciting such denial, or whoever [3] makes any discrimination, distinction, or restriction on account of color or race, or except for good cause, applicable alike to all citizens of every color or race whatever, in respect to the admission of any citizen to, or his treatment in, any inn, hotel, restaurant, eating-house, barber-shop, bath-house, theater, skating-rink, or other public place of amusement or accommodation, whether such place is licensed or not, or whoever aids or incites such discrimination, distinction, or restriction, for each and every such offense is liable in damages in an amount not less than fifty dollars, which may be recovered in an action at law brought for that purpose. [Enacted, Statutes 1905, p. 553.]

### **Wrongful refusal to admit person to places of public amusement.**

**§ 53.** It is unlawful for any corporation, person, or association, or the proprietor, lessee, or the agents of either, of any opera house, theater, melodeon, museum, circus, caravan, race course, fair, or other place of public amusement or entertainment, to refuse admittance to

any person over the age of twenty-one years, who presents a ticket for admission acquired by purchase, or who tenders the price thereof for such ticket, and who demands admission to such place.

Any person under the influence of liquor, or who is guilty of boisterous conduct, or any person of lewd or immoral character, may be excluded from any such place of amusement. [Enacted, Statutes 1905, p. 554.]

#### **Violation of preceding provisions.**

§ 54. Any person who is refused admission to any place of amusement contrary to the provisions of the last preceding section, is entitled to recover from the proprietor, lessee, or their agents, or from any such person, corporation, or association, or the directors thereof, his actual damages, and one hundred dollars in addition thereto. [Enacted, Statutes 1905, p. 554.]

### **MARRIAGE.**

#### **What constitutes marriage.**

§ 55. Marriage is a personal relation arising out of a civil contract, to which the consent of parties capable of making the contract is necessary. Consent alone will not constitute marriage; it must be followed by a solemnization authorized by this code. [Amended, Statutes 1895, p. 121.]

#### **Minors capable of contracting marriage.**

§ 56. An unmarried male of the age of eighteen years or upwards, and any unmarried female of the age of fifteen years or upwards, and not otherwise disqualified, are capable of consenting to and consummating marriage.

#### **Marriage, how manifested and proved.**

§ 57. Consent to marriage and solemnization thereof may be proved under the same general rules of evidence as facts are proved in other cases. [Amended, Statutes 1895, p. 121.]

§ 58. Repealed.

#### **Incompetency of parties to.**

§ 59. Marriages between parents and children, ancestors and descendants of every degree, and between brothers and sisters of the half as well as the whole blood, and between uncles and nieces or aunts and nephews, are incestuous, and void from the beginning, whether the relationship is legitimate or illegitimate.

#### **Marriages illegal.**

§ 60. All marriages of white persons with negroes, Mongolians, or mulattoes are illegal and void. [Enacted, Statutes 1905, p. 554.]

### **Subsequent marriage.**

§ 61. A subsequent marriage contracted by any person during the life of a former husband or wife of such person, with any person other than such former husband or wife, is illegal and void from the beginning, unless:

1. The former marriage has been annulled or dissolved. In no case can a marriage of either of the parties during the life of the other, be valid in this state, if contracted within one year after the entry of an interlocutory decree in a proceeding for divorce.

2. Unless such former husband or wife is [1] absent, and not known to such person to be living for the space of five successive years immediately preceding such subsequent marriage, or [2] is generally reputed or believed by such person to be dead at the time such subsequent marriage was contracted. In either of which cases the subsequent marriage is valid until its nullity is adjudged by a competent tribunal. [Amended, Statutes 1903, p. 176.]

### **Release from marriage contract.**

§ 62. Neither party to a contract to marry is bound by a promise made in ignorance of the other's want of personal chastity, and either is released therefrom by unchaste conduct on the part of the other, unless both parties participate therein. [Amended, Code Amdts. 1873-74, p. 185.]

### **Marriages contracted without the state.**

§ 63. All marriages contracted without this state, which would be valid by the laws of the country in which the same were contracted, are valid in this state.

## **AUTHENTICATION OF MARRIAGE.**

### **Procedure required.**

§ 68. Marriage must be licensed, solemnized, authenticated, and recorded as provided in this article; but non-compliance with its provisions by others than a party to a marriage does not invalidate it. [Amended, Statutes 1905, p. 554.]

### **Marriage licenses.**

§ 69. All persons about to be joined in marriage must first obtain a license therefor, from the county clerk of the county in which the marriage is to be celebrated, which license must show:

1. The identity of the parties.
2. Their real and full names, and places of residence.
3. Their ages; and
4. Whether white, Mongolian, negro or mulatto.

No license must be granted when either of the parties, applicants therefor, is an imbecile, or insane, or who at the time of making the application, or proofs herein required, for said license, is under the influence of any

intoxicating liquor or narcotic drug; no license must be issued authorizing the marriage of a white person with a negro, mulatto, or Mongolian: If the male is under the age of twenty-one years, or the female is under the age of eighteen years, and such person has not been previously married, no license must be issued by the county clerk unless the consent in writing of the parents of the person under age, or one of such parents, or of his or her guardian, is presented to him, duly verified by such parents, or parent, or guardian; and such consent must be filed by the clerk, and he must state such facts in the license. For the purpose of ascertaining all the facts mentioned or required in this section, the clerk, at the time the license is applied for, may, if he deems it necessary in order to satisfy himself as to matters in this section enumerated, examine the male applicant for a license on oath, which examination shall be reduced to writing by the clerk, and subscribed by him. [Amended, Statutes 1907, p. 305.]

#### **Certificate of registry of marriage.**

§ 69a. All persons about to be joined in marriage must obtain from the county clerk of the county in which the marriage is to be celebrated, in addition to the license therefor provided for in section sixty-nine of the Civil Code, a certificate of registry as provided in section three thousand and seventy-six of the Political Code which shall contain among other matters as near as can be ascertained, the race, color, age, name and surname, birthplace, residence of the parties to be married, number of marriage and condition of each, whether single, widowed, or divorced, the occupation of the parties, maiden name of the female, if previously married, the names and birthplaces of the parents of each, and the maiden name of the mother of each, which said certificate of registry shall be filled out as herein provided in the presence of the county clerk issuing the marriage license and shall then be presented to the person performing the ceremony and shall be filed by him with the county recorder within three days after the ceremony. [Enacted, Statutes 1909, p. 1093.]

#### **By whom may be solemnized.**

§ 70. Marriage may be solemnized by either a justice of the supreme court, justice of the district courts of appeal, judge of the superior court, justice of the peace, judge of any police court, city recorder, priest or minister of the gospel of any denomination. [Amended, Statutes 1907, p. 80.]

#### **No particular form of solemnization.**

§ 71. No particular form for the ceremony of marriage is required, but the parties must declare, in the presence of the person solemnizing the marriage, that they take each other as husband and wife.

#### **Requirements by persons solemnizing marriage.**

§ 72. The person solemnizing a marriage must first require the presentation of the marriage license; and if he has any reason to doubt the correctness of its statement of facts, he must first satisfy himself of its

correctness, and for that purpose he may administer oaths and examine the parties and witnesses in like manner as the county clerk does before issuing the license. [Amended, Code Amdts. 1873-74, p. 186.]

#### **Certificate of marriage.**

§ 73. The person solemnizing a marriage must make, sign and indorse upon, or attach to, the license, a certificate showing:

1. The fact, time and place of solemnization; and
2. The names and places of residence of one or more witnesses to the ceremony. [Amended, Code Amdts. 1873-74, p. 187.]

#### **Certificate to parties and recorder.**

§ 74. He must, at the request of, and for either party, make a certified copy of the license and certificate, and file the originals with the county recorder within thirty days after the marriage.

§ 75. Repealed.

#### **Declaration where there is no record.**

§ 76. If no record of the solemnization of a marriage heretofore contracted, be known to exist, the parties may join in a written declaration of such marriage, substantially showing:

1. The names, ages, and residences of the parties.
2. The fact of marriage.

3. That no record of such marriage is known to exist. Such declaration must be subscribed by the parties and attested by at least three witnesses. [Amended, Code Amdts. 1873-74, p. 187.]

#### **To be acknowledged and recorded.**

§ 77. Declarations of marriage must be acknowledged and recorded in like manner as grants of real property.

#### **Testing validity of marriage.**

§ 78. If either party to any marriage denies the same, or refuses to join in a declaration thereof, the other may proceed, by action in the superior court, to have the validity of the marriage determined and declared. [Amended, Statutes 1883, p. 3.]

#### **Marriage without license.**

§ 79. When unmarried persons, not minors, have been living together as man and wife, they may, without a license, be married by any clergyman. A certificate of such marriage must, by the clergyman, be made and delivered to the parties, and recorded upon the records of the church of which the clergyman is a representative. No other record need be made. [Enacted, Code Amdts. 1877-78, p. 75.]

### **Recording declaration of marriage.**

§ 79a. The provisions of this chapter, so far as they relate to the solemnizing of marriages, are not applicable to members of any particular religious denomination having, as such, any peculiar mode of entering the marriage relation; but such marriages must be declared, as provided in section seventy-six, and be acknowledged and recorded, as provided in section seventy-seven. When a marriage is declared as provided in said section seventy-six, the husband must file said declaration with the county recorder within thirty days after such marriage, and upon receiving the same the county recorder must record the same; and if the husband fails to make such declaration and file the same for record, as herein provided, he is liable to the same penalties as any person authorized to solemnize marriages, who fails to make the return of such solemnization as provided by law. [Amended, Statutes 1905, p. 555.]

### **Action to have marriage declared void.**

§ 80. Either party to an incestuous or void marriage may proceed by action in the superior court, to have the same so declared. [Amended, Code Amdts. 1880, p. 4.]

## **DIVORCE.**

### **Causes for annulling marriages.**

§ 82. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

1. That the party in whose behalf it is sought to have the marriage annulled was under the age of legal consent, and such marriage was contracted without the consent of his or her parents or guardian, or person having charge of him or her; unless, after attaining the age of consent, such party for any time freely cohabited with the other as husband or wife.
2. That the former husband or wife of either party was living, and the marriage with such former husband or wife was then in force.
3. That either party was of unsound mind, unless such party, after coming to reason, freely cohabit with the other as husband or wife.
4. That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband or wife.
5. That the consent of either party was obtained by force, unless such party afterwards freely cohabited with the other as husband or wife.
6. That either party was, at the time of marriage, physically incapable of entering into the marriage state, and such incapacity continues, and appears to be incurable. [Amended, Code Amdts. 1873-74, p. 187.]

### **Actions therefor, when commenced.**

§ 83. An action to obtain a decree of nullity of marriage, for causes mentioned in the preceding section, must be commenced within the periods and by the parties, as follows:

1. For causes mentioned in subdivision one: by the party to the marriage who was married under the age of legal consent, within four years after arriving at the age of consent; or by a parent, guardian, or other person having charge of such nonaged male or female, at any time before such married minor has arrived at the age of legal consent.

2. For causes mentioned in subdivision two: by either party during the life of the other, or by such former husband or wife.

3. For causes mentioned in subdivision three: by the party injured, or relative or guardian of the party of unsound mind, at any time before the death of either party.

4. For causes mentioned in subdivision four: by the party injured, within four years after the discovery of the facts constituting the fraud.

5. For causes mentioned in subdivision five: by the injured party, within four years after the marriage.

6. For causes mentioned in subdivision six: by the injured party, within four years after the marriage. [Amended, Code Amdts. 1873-74, p. 188.]

#### **Children of annulled marriage.**

§ 84. A judgment of nullity of marriage does not affect the legitimacy of children begotten before the judgment. [Amended, Statutes 1905, p. 555.]

#### **Custody of children.**

§ 85. The court must award the custody of the children of a marriage annulled on the ground of fraud or force to the innocent parent, and may also provide for their education and maintenance out of the property of the guilty party.

#### **Effect of judgment of nullity.**

§ 86. A judgment of nullity of marriage rendered is conclusive only as against the parties to the action and those claiming under them.

#### **Marriage, how dissolved.**

§ 90. Marriage is dissolved only:

1. By death of one of the parties; or,
2. By the judgment of a court of competent jurisdiction decreeing a divorce of the parties. [Amended, Code Amdts. 1873-74, p. 189.]

#### **Effect of divorce.**

§ 91. The effect of a judgment decreeing a divorce, is to restore the parties to the state of unmarried persons. [Amended, Code Amdts. 1873-74, p. 189.]

#### **Causes for divorce.**

§ 92. Divorces may be granted for any of the following causes:

1. Adultery.
2. Extreme cruelty.
3. Wilful desertion.



4. Wilful neglect.
5. Habitual intemperance.
6. Conviction of felony. [Amended, Code Amdts. 1873-74, p. 189.]

**Adultery defined.**

§ 93. Adultery is the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife.

**Extreme cruelty.**

§ 94. Extreme cruelty is the wrongful infliction of grievous [1] bodily injury, or grievous [2] mental suffering, upon the other by one party to the marriage. [Amended, Statutes 1905, p. 75.]

**Desertion.**

§ 95. Wilful desertion is the voluntary separation of one of the married parties from the other with intent to desert.

**Desertion, how manifested.**

§ 96. Persistent refusal [1] to have reasonable matrimonial intercourse as husband and wife, when health or physical condition does not make such refusal reasonably necessary, or [2] the refusal of either party to dwell in the same house with the other party, when there is no just cause for such refusal, is desertion.

**In case of stratagem or fraud.**

§ 97. When one party is induced, by the stratagem or fraud of the other party, to leave the family dwelling place, or to be absent, and during such absence the offending party departs with intent to desert the other, it is desertion by the party committing the stratagem or fraud, and not by the other.

**In case of cruelty.**

§ 98. Departure or absence of one party from the family dwelling-place, caused by cruelty or by threats of bodily harm from which danger would be reasonably apprehended from the other, is not desertion by the absent party, but it is desertion by the other party.

**Separation by consent not desertion.**

§ 99. Separation by consent, with or without the understanding that one of the parties will apply for divorce, is not desertion.

**Absence becomes desertion, when.**

§ 100. Absence or separation, proper in itself, becomes desertion whenever the intent to desert is fixed during such absence or separation. [Amended, Code Amdts. 1873-74, p. 189.]

**Consent to separate revocable.**

§ 101. Consent to a separation is a revocable act, and if one of the parties afterwards, in good faith, seeks a reconciliation and restoration, but the other refuses it, such refusal is desertion.

**Desertion, how cured.**

§ 102. If one party deserts the other, and before the expiration of the statutory period required to make the desertion a cause of divorce, returns and offers in good faith to fulfill the marriage contract, and solicits condonation, the desertion is cured. If the other party refuse such offer and condonation, the refusal shall be deemed and treated as desertion by such party from the time of refusal. [Amended, Code Amdts. 1873-74, p. 190.]

**Wife must abide by husband's selection of home.**

§ 103. The husband may choose any reasonable place or mode of living, and if the wife does not conform thereto, it is desertion.

**If the place is unfit.**

§ 104. If the place or mode of living selected by the husband is unreasonable and grossly unfit, and the wife does not conform thereto, it is desertion on the part of the husband from the time her reasonable objections are made known to him.

**Wilful Neglect.**

§ 105. Wilful neglect is [1] the neglect of the husband to provide for his wife the common necessities of life, he having the ability to do so; or it is [2] the failure to do so by reason of idleness, profligacy, or dissipation.

**Habitual intemperance.**

§ 106. Habitual intemperance is that degree of intemperance from the use of intoxicating drinks which [1] disqualifies the person a great portion of the time from properly attending to business, or [2] which would reasonably inflict a course of great mental anguish upon the innocent party.

**Habitual intemperance for one year.**

§ 107. [1] Wilful desertion, [2] wilful neglect, or [3] habitual intemperance must continue one year before either is a ground for divorce.

**Divorces denied, on showing what.**

§ 111. Divorces must be denied upon showing:

1. Connivance; or,
2. Collusion; or,
3. Condonation; or,
4. Recrimination; or,
5. Limitation and lapse of time.

### **Connivance.**

§ 112. Connivance is the corrupt consent of one party to the commission of the acts of the other, constituting the cause of divorce.

### **Corrupt consent.**

§ 113. Corrupt consent is manifested by passive permission, with intent to connive at or actively procure the commission of the acts complained of.

### **Collusion.**

§ 114. Collusion is [1] an agreement between husband and wife that one of them shall commit, or [2] appear to have committed, or to [3] be represented in court as having committed, acts constituting a cause of divorce, for the purpose of enabling the other to obtain a divorce.

### **Condonation.**

§ 115. Condonation is the conditional forgiveness of a matrimonial offense constituting a cause of divorce.

### **Requisites to condonation.**

§ 116. The following requirements are necessary to condonation.

1. A knowledge on the part of the condoner of the facts constituting the cause of divorce;
2. Reconciliation and remission of the offense by the injured party;
3. Restoration of the offending party to all marital rights.

### **Condonation implies what.**

§ 117. Condonation implies a condition subsequent; that the forgiving party must be treated with conjugal kindness.

### **Evidence of condonation.**

§ 118. Where the cause of divorce consists [1] of a course of offensive conduct, or [2] arises, in cases of cruelty, from excessive acts of ill-treatment which may, aggregately, constitute the offense, [a] cohabitation, or [b] passive endurance, or [c] conjugal kindness, shall not be evidence of condonation of any of the acts constituting such cause, unless accompanied by an express agreement to condone. [Amended, Code Amdts. 1873-74, p. 190.]

### **Condonation can only be made when.**

§ 119. In cases mentioned in the last section, condonation can be made only after the cause of divorce has become complete, as to the acts complained of. [Amended, Code Amdts. 1873-74, p. 190.]

### **Concealment of facts in certain cases.**

§ 120. A fraudulent concealment by the condonee of facts constituting a different cause of divorce from the one condoned, and existing at the time of condonation, avoids such condonation.

### **Condonation, how revoked.**

§ 121. Condonation is revoked and the original cause of divorce revived:

1. When the condonee commits acts constituting a like or other cause of divorce; or,
2. When the condonee is guilty of great conjugal unkindness, not amounting to a cause of divorce, but sufficiently habitual and gross to show that the conditions of condonation had not been accepted in good faith, or not fulfilled.

### **Recrimination.**

§ 122. Recrimination is a showing by the defendant of any cause of divorce against the plaintiff, in bar of the plaintiff's cause of divorce.

### **Condonation, when to bar defense.**

§ 123. Condonation of a cause of divorce, shown in the answer as a recriminatory defense, is a bar to such defense, unless the condonation be revoked, as provided in section one hundred and twenty-one, or two years have elapsed after the condonation, and before the accruing or completion of the cause of divorce against which the recrimination is shown. [Amended, Code Amdts. 1873-74, p. 190.]

### **Divorce, when denied.**

§ 124. A divorce must be denied:

1. When the cause is adultery and the action is not commenced within two years after the commission of the act of adultery, or after its discovery by the injured party; or,
2. When the cause is conviction of felony, and the action is not commenced before the expiration of two years after a pardon, or the termination of the period of sentence.
3. In all other cases when there is an unreasonable lapse of time before the commencement of the action. [Amended, Code Amdts. 1873-74, p. 191.]

### **Lapse of time establishes certain presumptions.**

§ 125. Unreasonable lapse of time is such a delay in commencing the action as establishes the presumption that there has been connivance, collusion, or condonation of the offense, or full acquiescence in the same, with intent to continue the marriage relations, notwithstanding the commission of such offense.

**Presumptions may be rebutted.**

§ 126. Presumptions arising from lapse of time may be rebutted by showing reasonable grounds for the delay in commencing the action.

**Limitation of time.**

§ 127. There are no limitations of time for commencing actions for divorce, except such as are contained in section one hundred and twenty-four.

**Residence of plaintiff.**

§ 128. A divorce must not be granted unless the plaintiff has been a resident of the state one year, and of the county in which the action is brought three months, next preceding the commencement of the action; *provided*, that a cross-complainant in an action for divorce need not be or have been a resident of the state or of the county in which the action is brought or pending in order to entitle such cross-complainant to a divorce in said action; *and provided, further*, that in an action for divorce a cross-complainant must personally verify the cross-complaint. [Amended, Statutes 1911, p. 686.]

**Proof of actual residence required.**

§ 129. In actions for divorce the presumption of law, that the domicile of the husband is the domicile of the wife, does not apply. After separation, each may have a separate domicile, depending for proof upon actual residence, and not upon legal presumptions.

**Divorce not to be granted by default, etc.**

§ 130. No divorce can be granted upon the default of the defendant, or upon the uncorroborated statement, admission, or testimony of the parties, or upon any statement or finding of fact made by a referee; but the court must, in addition to any statement or finding of the referee, require proof of the facts alleged, and such proof, if not taken before the court, must be upon written questions and answers. [Amended, Code Amdts. 1873-74, p. 191.]

**Interlocutory judgment.**

§ 131. In actions for divorce, the court must file its decision and conclusions of law as in other cases, and if it determines that no divorce shall be granted, final judgment must thereupon be entered accordingly. If it determines that the divorce ought to be granted, an interlocutory judgment must be entered, declaring that the party in whose favor the court decides is entitled to a divorce. After the entry of the interlocutory judgment, neither party shall have the right to dismiss the action without the consent of the other. [Amended, Statutes 1915, p. 209.]

**Final judgment, after one year.**

§ 132. When one year has expired after the entry of such interlocutory judgment, the court on motion of either party, or upon its own motion, may enter the final judgment granting [1] the divorce, and such final judgment shall [2] restore them to the status of single persons, and [3] permit either to marry after the entry thereof; and [4] such other and further relief as may be necessary to complete disposition of the action, but if any appeal is taken from the interlocutory judgment or motion for a new trial made, final judgment shall not be entered until such motion or appeal has been finally disposed of, nor then, if the motion has been granted or judgment reversed. The death of either party after the entry of the interlocutory judgment does not impair the power of the court to enter final judgment as hereinbefore provided; but such entry shall not validate any marriage contracted by either party before the entry of such final judgment, nor constitute any defense of any criminal prosecution made against either. [Enacted, Statutes 1903, p. 76.]

**Relief may be adjudged in some cases.**

§ 136. Though judgment of divorce is denied, the court may, in an action for divorce, provide for the maintenance by the husband, of the wife and children of the marriage, or any of them. [Amended, Statutes 1905, p. 634.]

**Alimony.**

§ 137. When an action for divorce is pending, the court may, in its discretion, require the husband to pay as alimony any money necessary to enable the wife to support herself and her children, or to prosecute or defend the action. When the husband wilfully deserts the wife or when the husband wilfully fails to provide for the wife or when the wife has any cause of action for divorce as provided in section ninety-two of this code, she may, without applying for divorce, maintain in the superior court an action against him for permanent support and maintenance of herself or of herself and children. During the pendency of such action the court may in its discretion, require the husband to pay as alimony any money necessary for the prosecution of the action and for support and maintenance, and execution may issue therefor in the discretion of the court. The court, in granting the wife permanent support and maintenance of herself, or of herself and children, in any such action, shall make the same disposition of the community property and of the homestead, if any, as would have been made if the marriage had been dissolved by the decree of a court of competent jurisdiction. The final judgment in such action may be enforced by the court by such order or orders as in its discretion it may from time to time deem necessary, and such order or orders may be varied, altered, or revoked at the discretion of the court. [Amended, Statutes 1917, p. 35.]

### **Orders respecting custody of children.**

§ 138. In actions for divorce the court may, [1] during the pendency of the action, or [2] at the final hearing or [3] at any time thereafter during the minority of any of the children of the marriage, make such order for the custody, care, education, maintenance and support of such minor children as may seem necessary or proper, and may at any time modify or vacate the same. [Amended, Statutes 1905, p. 43.]

### **Support of wife and children on divorce or separation granted to wife.**

§ 139. Where a divorce is granted for an offense of the husband, the court may compel him [1] to provide for the maintenance of the children of the marriage, and [2] to make such suitable allowance to the wife for her support [a] during her life, or [b] for a shorter period, as the court may deem just, having regard to the circumstances of the parties respectively; and the court may, from time to time, modify its orders in these respects.

### **Security for maintenance and alimony.**

§ 140. The court may require the husband to give reasonable security for providing [1] maintenance or [2] making any payments required under the provisions of this chapter, and may enforce the same [a] by the appointment of a receiver, or [b] by any other remedy applicable to the case.

### **Court shall resort to what.**

§ 141. In executing the five preceding sections the court must resort:

1. To the community property; then,
2. To the separate property of the husband.

### **If wife has sufficient for her support.**

§ 142. When the wife has either a separate estate, or there is community property sufficient to give her alimony or a proper support, the court, in its discretion, may withhold any allowance to her out of the separate property of the husband.

### **Community and separate property.**

§ 143. The community property and the separate property may be subjected to the support and education of the children in such proportions as the court deems just.

### **Legitimacy of issue.**

§ 144. When a divorce is granted for the adultery of the husband, the legitimacy of children of the marriage begotten of the wife before the commencement of the action is not affected.

§ 145. When a divorce is granted for the adultery of the wife, the legitimacy of children begotten of her before the commission of the adultery

is not affected; but the legitimacy of other children of the wife may be determined by the court, upon the evidence in the case.

**Disposition of community property.**

§ 146. In case of the dissolution of the marriage by the decree of a court of competent jurisdiction, the community property, and the homestead, shall be assigned as follows:

1. If the decree be rendered on the ground of adultery, or extreme cruelty, the community property shall be assigned to the respective parties in such proportions as the court, from all the facts of the case, and the condition of the parties, may deem just.

2. If the decree be rendered on any other ground than that of adultery or extreme cruelty, the community property shall be equally divided between the parties.

3. If a homestead has been selected from the community property, it may be assigned to the innocent party, either absolutely or for a limited period, subject, in the latter case, to the future disposition of the court, or it may, in the discretion of the court, be divided, or be sold and the proceeds divided.

4. If a homestead has been selected from the separate property of either, it shall be assigned to the former owner of such property, subject to the power of the court to assign it for a limited period to the innocent party. [Amended, Code Amdts. 1873-74, p. 191.]

§ 147. The court, in rendering a decree of divorce, must make such order for the disposition of the community property, and of the homestead, as in this chapter provided, and whenever necessary for that purpose, may order a partition or sale of the property and a division or other disposition of the proceeds. [Amended, Code Amdts. 1873-74, p. 192.]

§ 148. The disposition of the community property, and of the homestead, as above provided, is subject to revision on appeal in all particulars, including those which are stated to be in the discretion of the court. [Amended, Code Amdts. 1873-74, p. 192.]

## **HUSBAND AND WIFE.**

**Mutual obligations.**

§ 155. Husband and wife contract towards each other obligations of mutual respect, fidelity, and support.

**Rights of husband.**

§ 156. The husband is the head of the family. He may choose any reasonable place or mode of living, and the wife must conform thereto.

**In other respects their interests separate.**

§ 157. Neither husband nor wife has any interest in the property of the other, but neither can be excluded from the other's dwelling.



### **Husband and wife may make contracts.**

§ 158. Either husband or wife may enter into any engagement or transaction with the other, or with any other person, respecting property, which either might if unmarried; subject, in transactions between themselves, to the general rules which control the actions of persons occupying confidential relations with each other, as defined by the title on trusts.

### **How far may alter their legal relations.**

§ 159. A husband and wife can not, by any contract with each other, alter their legal relations, except [1] as to property, and except that [2] they may agree, in writing, to an immediate separation, and may [3] make provision for the support of [a] either of them and of [b] their children during such separation. [Amended, Code Amdts. 1873-74, p. 193.]

### **Consideration for agreement of separation.**

§ 160. The mutual consent of the parties is a sufficient consideration for such an agreement as is mentioned in the last section.

### **May be joint tenants.**

§ 161. A husband and wife may hold property as joint tenants, tenants in common, or as community property.

### **Separate property of the wife.**

§ 162. All property of the wife, [1] owned by her before marriage, and that [2] acquired afterwards by gift, bequest, devise, or descent, with [3] the rents, issues, and profits thereof, is her separate property. The wife may, without the consent of her husband, convey her separate property.

### **Separate property of the husband.**

§ 163. All property [1] owned by the husband before marriage, and that [2] acquired afterwards by gift, bequest, devise, or descent, with [3] the rents, issues, and profits thereof, is his separate property.

### **Community property.**

§ 164. All other property acquired after marriage by either husband or wife, or both, including real property situated in this state, and personal property wherever situated, acquired while domiciled elsewhere, which would not have been the separate property of either if acquired while domiciled in this state, is community property; but wherever any property is conveyed to a married woman by an instrument in writing, the presumption is that the title is thereby vested in her as her separate property. And in case the conveyance is to such married woman and to her husband, or to her and any other person, the presumption is that the married woman takes the part conveyed to her, as tenant in common, unless a different intention is expressed in the instrument, and the presumption in this section mentioned is conclusive in favor of a purchaser or encumbrancer in good faith and for a valuable consideration. And in cases where married women have conveyed, or shall hereafter convey,

real property which they acquired prior to May nineteenth, one thousand eight hundred eighty-nine, the husband, or their heirs or assigns, of such married women, shall be barred from commencing or maintaining any action to show that said real property was community property, or to recover said real property, as follows: As to conveyances heretofore made, from and after one year from the date of the taking effect of this act; and as to conveyances hereafter made, from and after one year from the filing for record in the recorder's office of such conveyances, respectively. [Amended, Statutes 1917, p. 827.]

#### **Inventory of separate property of wife.**

§ 165. A full and complete inventory of the separate personal property of the wife may be made out and signed by her, acknowledged or proved in the manner required by law for the acknowledgment or proof of a grant of real property by an unmarried woman, and recorded in the office of the recorder of the county in which the parties reside.

#### **Filing inventory notice of wife's title.**

§ 166. The filing of the inventory in the recorder's office is notice and prima facie evidence of the title of the wife. [Amended, Code Amdts. 1873-74, p. 193.]

#### **Community property, contracts by wife.**

§ 167. The property of the community is not liable for the contracts of the wife, made after marriage, unless secured by a pledge or mortgage thereof executed by the husband. [Amended, Code Amdts. 1873-74, p. 193.]

#### **Earnings of wife not liable for debts of husband.**

§ 168. The earnings of the wife are not liable for the debts of the husband.

#### **Earnings of wife, when living separate.**

§ 169. The [1] earnings and accumulations of the wife and [2] of her minor children living with her or in her custody, while she is living separate from her husband, are the separate property of the wife.

#### **Liability for debts of wife contracted before marriage.**

§ 170. The separate property of the husband is not liable for the debts of the wife contracted before the marriage.

#### **Wife's property not liable for husband's debts.**

§ 171. The separate property of the wife is liable for her own debts contracted before or after her marriage, but is not liable for her husband's debts; *provided*, that the separate property of the wife is liable for the payment of debts contracted by the husband or wife for the necessities of life furnished to them or either of them while they are living together; *provided*, that the provisions of the foregoing proviso shall not apply to

the separate property of the wife held by her at the time of her marriage or acquired by her by devise, succession, or gift, other than by gift from the husband, after marriage. [Amended, Statutes 1915, p. 920.]

#### **Married woman's torts.**

§ 171a. For civil injuries committed by a married woman, damages may be recovered from her alone, and her husband shall not be liable therefor, except in cases where he would be jointly liable with her if the marriage did not exist. [Enacted, Statutes 1913, p. 217.]

#### **Management of community personal property.**

§ 172. The husband has the management and control of the community personal property, with like absolute power of disposition, other than testamentary, as he has of his separate estate; *provided, however*, that he can not make a gift of such community personal property, or dispose of the same without a valuable consideration, or sell, convey, or encumber the furniture, furnishings, or fittings of the home, or the clothing or wearing apparel of the wife or minor children that is community, without the written consent of the wife. [Amended, Statutes 1917, p. 829.]

#### **Management of community real property.**

§ 172a. The husband has the management and control of the community real property but the wife must join with him in executing any instrument by which such community real property or any interest therein is leased for a longer period than one year, or is sold, conveyed, or encumbered; *provided, however*, that the sole lease, contract, mortgage or deed of the husband, holding the record title to community real property, to a lessee, purchaser or encumbrancer, in good faith without knowledge of the marriage relation shall be presumed to be valid; but no action to avoid such instrument shall be commenced after the expiration of one year from the filing for record of such instrument in the recorder's office in the county in which the land is situate. [Enacted, Statutes 1917, p. 829.]

#### **Curtesy and dower not allowed.**

§ 173. No estate is allowed the husband as tenant by curtesy upon the death of his wife, nor is any estate in dower allotted to the wife upon the death of her husband.

#### **Support of wife.**

§ 174. If the husband neglect to make adequate provision for the support of his wife, except in the cases mentioned in the next section, any other person may, in good faith, supply her with articles necessary for her support, and recover the reasonable value thereof from the husband. [Amended, Code Amdts. 1873-74, p. 193.]

**Same. When separate from husband.**

§ 175. A husband abandoned by his wife is not liable for her support until she offers to return, unless she was justified, by his misconduct in abandoning him; nor is he liable for her support when she is living separate from him, by agreement, unless such support is stipulated in the agreement. [Amended, Code Amdts. 1873-74, p. 193.]

**Wife to support husband, when.**

§ 176. The wife must support the husband, when he has not deserted her, out of her separate property, when he has no separate property, and there is no community property, and he is unable from infirmity, to support himself. [Amended, Code Amdts. 1873-74, p. 194.]

**Rights of husband and wife.**

§ 177. The property rights of husband and wife are governed by this chapter, unless there is a marriage settlement containing stipulations contrary thereto.

**Marriage settlement contracts.**

§ 178. All contracts for marriage settlements must be in writing, and executed and acknowledged or proved in like manner as a grant of land is required to be executed and acknowledged or proved.

**To be acknowledged and recorded.**

§ 179. When such contract is acknowledged or proved, it must be recorded in the office of the recorder of every county in which any real estate may be situated which is granted or affected by such contract.

**Effect of recording.**

§ 180. The recording or non-recording of such contract has a like effect as the recording or non-recording of a grant of real property.

**Minors may make marriage settlements.**

§ 181. A minor capable of contracting marriage may make a valid marriage settlement.

**PARENT AND CHILD.****Legitimacy of children born in wedlock.**

§ 193. All children born in wedlock are presumed to be legitimate.

**Children after dissolution of marriage.**

§ 194. All children of a woman who has been married, born within ten months after the dissolution of the marriage, are presumed to be legitimate children of that marriage. [Amended, Code Amdts. 1873-74, p. 194.]

### **Who may dispute the legitimacy.**

§ 195. The presumption of legitimacy can be disputed only by the [1] husband or [2] wife, or the [3] descendant of one or both of them. Illegitimacy, in such case, may be proved like any other fact.

### **Obligation of parents.**

§ 196. The parent entitled to the custody of a child must give him support and education suitable to his circumstances. If the support and education which the father of a legitimate child is able to give are inadequate, the mother must assist him to the extent of her ability.

### **Support of illegitimate child.**

§ 196a. The father, as well as the mother, of an illegitimate child must give him support and education suitable to his circumstances. A civil suit to enforce such obligations may be maintained in behalf of a minor illegitimate child, by his mother or guardian, and in such action the court shall have power to order and enforce performance thereof, the same as under sections 138, 139 and 140 of the Civil Code, in a suit for divorce by a wife. [Enacted, Statutes 1913, p. 218.]

### **Joint guardianship.**

§ 197. The father and mother of a legitimate unmarried minor child are equally entitled to its custody, services and earnings. If either the father or mother be dead or unable or refuse to take the custody or has abandoned his or her family, the other is entitled to its custody, services and earnings. [Amended, Statutes 1913, p. 57.]

### **Husband and wife living separate.**

§ 198. The husband and father, as such, has no right superior to those of the wife and mother, in regard to the care, custody, education, and control of the children of the marriage, while such husband and wife live separate and apart from each other.

### **When husband or wife may bring action for the exclusive control of children.**

§ 199. Without application for a divorce, the husband or the wife may bring an action for the exclusive control of the children of the marriage; and the court may, [1] during the pendency of such action, or [2] at the final hearing thereof, or [3] afterwards, make such order or decree in regard to the support, care, custody, education, and control of the children of the marriage, as may be just, and in accordance with the natural rights of the parents and the best interests of the children, and may [4] at any time thereafter amend, vary, or modify such order or decree, as the natural rights and the interests of the parties, including the children, may require.

### **Custody of an illegitimate child.**

§ 200. The mother of an illegitimate unmarried minor is entitled to its custody, services, and earnings.

### **Allowance to parent.**

§ 201. The proper court may direct an allowance to be made to the parent of a child, out of its property, for its past or future support and education, on such conditions as may be proper, whenever such direction is for its benefit.

### **Parent can not control child's property.**

§ 202. The parent, as such, has no control over the property of the child.

### **Remedy for parental abuse.**

§ 203. The abuse of parental authority is the subject of judicial cognizance in a civil action brought [1] by the child, or [2] by its relative within the third degree, or [3] by the supervisors of the county where the child resides; and when the abuse is established, the child may be freed from the dominion of the parent, and the duty of support and education enforced.

### **When parental authority ceases.**

§ 204. The authority of a parent ceases:

1. Upon the appointment, by a court, of a guardian of the person of a child;
2. Upon the marriage of the child; or,
3. Upon its attaining majority.

### **Remedy when a parent dies without providing for the support of his child.**

§ 205. If a parent chargeable with the support of a child dies, [1] leaving it chargeable to the county, and [2] leaving an estate sufficient for its support, the supervisors of the county may claim provision for its support from the parent's estate by civil action, and for this purpose may have the same remedies as any creditors against that estate, and against the heirs, devisees, and next of kin of the parent.

### **Reciprocal duties of parents and children.**

§ 206. It is the duty of the [1] father, the [2] mother, and the [3] children of any poor person who is unable to maintain himself by work, to maintain such person to the extent of their ability. The promise of an adult child to pay for necessities previously furnished to such parent, is binding.

**When a parent is liable for necessities.**

§ 207. If a parent neglects to provide articles necessary for his child who is under his charge, according to his circumstances, a third person may in good faith supply such necessities, and recover the reasonable value thereof from the parent.

**When a parent is not liable for support.**

§ 208. A parent is not bound to compensate [1] the other parent, or [2] a relative, for the voluntary support of his child, without an agreement for compensation, nor [3] to compensate a stranger for the support of a child who has abandoned the parent without just cause.

**Support of wife's children by a former marriage.**

§ 209. A husband is not bound to maintain his wife's children by a former husband; but if he receives them into his family and supports them, it is presumed that he does so as a parent, and, where such is the case, they are not liable to him for their support, nor he to them for their services.

**Compensation and support of adult child.**

§ 210. Where a child, after attaining majority, continues to serve and to be supported by the parent, neither party is entitled to compensation, in the absence of an agreement therefor.

**Parent may relinquish services and custody of child.**

§ 211. The parent, whether solvent or insolvent, may relinquish to the child the right of controlling him and receiving his earnings. Abandonment by the parent is presumptive evidence of such relinquishment.

**Wages of minors.**

§ 212. The wages of a minor employed in service may be paid to him until the parent or guardian entitled thereto gives the employer notice that he claims such wages. [Amended, Code Amdts. 1873-74, p. 194.]

**Right of parent to determine residence of child.**

§ 213. A parent entitled to the custody of a child has a right to change his residence, subject to the power of the proper court to restrain a removal which would prejudice the rights or welfare of the child.

**Wife may obtain custody of minor children.**

§ 214. When a husband and wife live in a state of separation, without being divorced, any court of competent jurisdiction, upon application of either, if an inhabitant of this state, may inquire into the custody of any unmarried minor child of the marriage, and may

award the custody of such child to either, for such time and under such regulations as the case may require. The decision of the court must be guided by the rules prescribed in section two hundred and forty-six.

**When child becomes legitimate.**

§ 215. A child born before wedlock becomes legitimate by the subsequent marriage of its parents. [Enacted, Code Amdts. 1873-74, p. 195.]

**ADOPTION.**

**Child may be adopted.**

§ 221. Any minor child may be adopted by any adult person, in the cases and subject to the rules prescribed in this chapter.

**Who may adopt.**

§ 222. The person adopting the child must be at least ten years older than the person adopted. [Amended, Code Amdts. 1873-74, p. 195.]

**Consent to adoption by wife.**

§ 223. A married man, not lawfully separated from his wife, can not adopt a child without the consent of his wife, nor can a married woman, not thus separated from her husband, without his consent; *provided*, the husband or wife, not consenting, is capable of giving such consent. [Amended, Code Amdts. 1873-74, p. 195.]

**Consent necessary, orphans and abandoned children.**

§ 224. A legitimate child can not be adopted without the consent of its parents if living, nor an illegitimate child without the consent of its mother if living, except that consent is not necessary in the following cases, to wit:

1. From a father or mother if deprived of civil rights.
2. From a father or mother adjudged guilty of adultery or cruelty and for either cause divorced.
3. From a father or mother who has been judicially deprived of the custody and control of such child on the ground of abandonment, cruelty, neglect or habitual intemperance, either by order of the juvenile court declaring said child to be free from the custody and control of its parents as provided in the juvenile court law of the State of California, approved June 5, 1915, and any act or acts superseding or amending same, or by order of the juvenile court of the county, where such child was left in the care and custody of another by its parent or parents, without any provisions for its support, for the period of one year, determining such child to be an abandoned child as defined in said juvenile court law; *provided, however*, that said juvenile court shall never make such order of abandonment without first giving notice of said abandonment proceeding by person



service of citation or other court process on the parent or parents or person having the custody of such child residing within the state, if their residence is known and also such other or further notice to said parent or parents or person having the custody of such child, or other person or persons as the court may require, or by order of any other court of competent jurisdiction.

4. From a father or mother who has been declared either feeble-minded or insane by the state commission in lunacy or by three competent persons appointed by said commission; *provided*, that if so declared insane, said father or mother shall have subsequently been determined to be incurably insane by the superior court of the county where he or she resides.

From a father or mother of any child deserted by its parents without provision for their identification.

From a father or mother of any child relinquished by its parent or parents for the purpose of adoption expressed in writing signed and acknowledged by such parent or parents before an officer authorized to take acknowledgments, or signed by such parent or parents two subscribing witnesses and acknowledged by such parent or parents before the secretary of any organization or society engaged in the work of placing dependent or deserted children into homes in this state, which organization or society has obtained a permit therefor, duly executed in writing, from the state board of charities and corrections, and when a copy of this relinquishment shall have been filed with the state board of charities and corrections prior to the commencement of any adoption proceedings affecting such child.

Any child, the consent of whose parents is not necessary for its adoption within the meaning of this section maintained by or in the custody of any orphan asylum within this state, any charitable organization or society receiving state aid or receiving commitments from the juvenile court, may be adopted with the consent of the president of such orphan asylum, charitable organization or society, or with the consent of such officer as may be authorized by the directors or managers of such asylum, organization or society to consent to adoption in such cases. Any orphan child for whose support no provision has been made by any person for a period of one year, but who has been maintained during said year, by or in the custody of any orphan asylum within this state, any charitable organization or society receiving state aid or receiving commitments from the juvenile court may be adopted with the consent of the president of such orphan asylum, charitable organization or society or with the consent of such officer as may be authorized by the directors or managers of such asylum, organization or society to consent to adoption in such cases. [Amended, Statutes 1917, p. 770.]

#### **Consent of child.**

§ 225. The consent of a child, if over the age of twelve years, is necessary to its adoption.

### **Proceedings on adoption.**

§ 226. Any person desiring to adopt a child may, for that purpose, petition the superior court of the county in which the petitioner resides. The [1] person adopting a child, and [2] the child adopted, and [3] the other persons, if within or residents of said county, whose consent is necessary, must appear before the court, and [4] the necessary consent must thereupon be signed and [5] an agreement executed by the person adopting, to the effect that the child shall be adopted and treated in all respects as his own lawful child should be treated. If the persons whose consent is necessary are not within or are not residents of said county, then [6] their written consent, duly proved or acknowledged, according to sections eleven hundred and eighty-two and eleven hundred and eighty-three [7] must be filed in said superior court at the time of the application for adoption. [Amended, Statutes 1907, p. 329.]

### **Judge's order in adoption proceedings.**

§ 227. The court must [1] examine all persons appearing before it pursuant to the last section, each separately, and if satisfied that the interests of the child will be promoted by the adoption, it must make an order declaring that the child shall thenceforth be regarded and treated in all respects as the child of the person adopting. The petition, agreement, consent, and order must be filed and registered in the office of the county clerk in the same manner as papers in other special proceedings. [Amended, Statutes 1905, p. 556.]

### **Effect of adoption.**

§ 228. A child, when adopted, may take the family name of the person adopting. After adoption, the two shall sustain towards each other the legal relation of parent and child, and have all the rights and be subject to all the duties of that relation. [Amended, Code Amdts. 1873-74, p. 195.]

### **Effect on former relations of child.**

§ 229. The parents of an adopted child are, from the time of the adoption, relieved of all parental duties towards, and all responsibility for, the child so adopted, and have no right over it.

### **Adoption of illegitimate child.**

§ 230. The father of an illegitimate child, by [1] publicly acknowledging it as his own, [2] receiving it as such, [3] with the consent of his wife, if he is married, [4] into his family, and [5] otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth. The foregoing provisions of this chapter do not apply to such an adoption.

## **GUARDIAN AND WARD.**

### **Guardian.**

§ 236. A guardian is a person appointed to take care of the person or property of another.

### **Ward.**

§ 237. The person over whom or over whose property a guardian is appointed, is called his ward.

### **Kinds of guardians.**

§ 238. Guardians are either:

1. General; or,
2. Special.

### **General guardian, what.**

§ 239. A general guardian is a guardian of the person or of all the property of the ward within this state, or of both.

### **Special guardian, what.**

§ 240. Every other is a special guardian.

### **Guardian appointment by will, etc.**

§ 241. A guardian of the person or estate, or of both, of a child born, or likely to be born, may be appointed by will or by deed, to take effect upon the death of the parent appointing:

1. If the child be legitimate, by the father, with the written consent of the mother; or by either parent, if the other be dead or incapable of consent.
2. If the child be illegitimate, by the mother. [Amended, Code Amdts. 1873-74, p. 195.]

### **Guardian of insane or incompetent person.**

§ 242. A guardian of the person or estate, or of both, of an insane or incompetent person may be appointed by will or deed, to take effect upon the death of the person appointing:

1. If the insane or incompetent person be unmarried, or be a person whose marriage has been annulled or dissolved by death or divorce, by the father, with the written consent of the mother, or by either parent if the other be dead or incapable of consent.
2. If the insane or incompetent person be married and a person whose marriage has not been annulled or dissolved by divorce, then by the spouse. [Enacted, Statutes 1917, p. 645.]

§ 243. Repealed.

§ 244. Repealed.

§ 245. Repealed.

### **Rules for awarding the custody of minors.**

§ 246. In awarding the custody of a minor, or in appointing a general guardian, the court or officer is to be guided by the following considerations:

1. By what appears to be for the best interest of the child in respect to its temporal and its mental and moral welfare; and if the child is of a sufficient age to form an intelligent preference, the court may consider that preference in determining the question;

2. As between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right; but other things being equal, if the child is of tender years, it should be given to the mother; if it is of an age to require education and preparation for labor and business, then to the father;

3. Of two persons equally entitled to the custody in other respects, preference is to be given as follows:

(1) To a parent;

(2) To one who was indicated by the wishes of a deceased parent;

(3) To one who already stands in the position of a trustee of a fund to be applied to the child's support;

(4) To a relative.

4. Any parent who knowingly or wilfully abandons, or having the ability so to do, fails to maintain his minor child under the age of fourteen years, forfeits the guardianship of such child; and any parent or guardian who knowingly permits his child or ward to remain for the space of one year in any orphan asylum of this state, wherein such child is supported by charity, and who, during such period, fails to give notice in writing to the managers or officers of such asylum that he is such parent or guardian, abandons and forever forfeits all right to the guardianship, care, custody, and control of such child. The officers and managers of any orphan asylum having any such abandoned child in its care have the preferred right to the guardianship of such child. [Amended, Statutes 1905, p. 728.]

§ 247. Repealed.

§ 248. Repealed.

§ 249. Repealed.

### **Relation confidential.**

§ 250. The relation of guardian and ward is confidential, and is subject to the provisions of the title on Trust.

### **Guardian under direction of court.**

§ 251. In the management and disposition of the person or property committed to him, a guardian may be regulated and controlled by the court.

### **Death of a joint guardian.**

§ 252. On the death of one of two or more joint guardians, the power continues to the survivor until a further appointment is made by the court.

### **Removal of guardian.**

§ 253. A guardian may be removed by the superior court for any of the following causes:

1. For abuse of his trust;
2. For continued failure to perform its [his] duties;
3. For incapacity to perform its [his] duties;
4. For gross immorality;
5. For having an interest adverse to the faithful performance of his duties;
6. For removal from the state;
7. In the case of a guardian of the property, for insolvency; or,
8. When it is no longer proper that the ward should be under guardianship. [Amended, Code Amdts. 1880, p. 5.]

### **Guardian appointed by parent, how superseded.**

§ 254. The power of a guardian appointed by a parent is superseded:

1. By his removal, as provided by section 253;
2. By the solemnized marriage of the ward; or,
3. By the ward's attaining majority.

### **Suspension of power of guardian.**

§ 255. The power of a guardian appointed by a court is suspended only:

1. By order of the court; or,
2. If the appointment was made solely because of the ward's minority, by his attaining majority; or,
3. The guardianship over the person of the ward, by the marriage of the ward. [Amended, Code Amdts. 1873-74, p. 197.]

### **Release by ward.**

§ 256. After a ward has come to his majority, he may settle accounts with his guardian, and give him a release, which is valid if obtained fairly and without undue influence.

### **Guardian's discharge.**

§ 257. A guardian appointed by a court is not entitled to his discharge until one year after the ward's majority.

§ 258. Repealed.

## MASTER AND APPRENTICE.

### Minors may be bound as apprentices.

§ 264. Every minor of the age of fourteen years or upwards may be bound by indenture as an apprentice to any mechanical trade or art or the occupation of farming to the age of eighteen, if a female, or to the age of twenty-one years, if a male. [Amended, Statutes 1905, p. 560.]

### Persons who may bind minor.

§ 265. A minor, with his consent, may be bound by [1] his father, or, in case of his [a] death or [b] incompetency, or where he has [c] wilfully abandoned his family for one year without making suitable provision for their support, or [d] is habitually intemperate in the use of intoxicants, or [e] is a vagrant, then by [2] his mother or [3] legal guardian. An [4] executor who, by the will of the father, is directed to bring up a child to a trade or calling, has power to bind by indenture in like manner as the father might have done, if living. If a child is illegitimate, the mother alone has power to bind him. If a minor has no parent or guardian competent to act for him, he may bind himself, with the approval of the superior court of the county wherein he resides. If the mother of a minor, whether legitimate or illegitimate, marries after his birth; she can not bind him without the approval of such superior court. [Amended, Statutes 1905, p. 561.]

### Indenture of apprenticeship.

§ 266. Every indenture of apprenticeship [1] must be executed in duplicate, [2] must state the age of the minor, and, except as hereinafter provided, [3] must show that he consented thereto, [4] must be signed by him and the person binding and the master, and when made with the approval of the superior court, [5] a certified copy of the order of approval must be attached to the indenture. One copy of the indenture [6] must be delivered to the master and [7] the other kept for the use of the minor by his parent or guardian when executed by him, or, when made with the approval of the court, [8] it must be filed and deposited with the clerk for safekeeping for the use of the minor. No indenture binds the minor after the death of the master, but thereafter the minor may be bound anew. Every indenture entered into otherwise than as herein provided is, as against the apprentice, absolutely void. [Amended, Statutes 1905, p. 561.]

### Jury trial as to facts of incapacity, etc., of parent.

§ 267. Facts of incapacity, desertion, habitual intemperance, and vagrancy must be decided in said court by a jury, before the indenture can take effect, and an indorsement on the indenture, under seal of the court, that the charge or charges are proved, is sufficient evidence of the mother's power to give such consent; but if the jury does not find the charge or charges to be true, the person at whose instance such proceedings may have been had must pay all costs attending the same. [Amended, Statutes 1905, p. 561.]

### **Apprenticing of poor and homeless minor.**

§ 268. When a minor is poor, homeless, chargeable to the county or state, or an outcast, who has no visible means of obtaining an honest livelihood, the superior court may, with his consent, bind him as an apprentice during his minority. Proceedings therefor may be instituted by any citizen, and no fee must be charged by any officer for any act in connection therewith. In all indentures by the court for binding out an orphan or homeless minor as an apprentice there must be inserted among other things, [1] a clause to the following effect: that the master to whom such minor is bound must cause him to be taught to read and write and the ground rules of arithmetic, ratio and proportion, and must give him the requisite instruction in the different branches of his trade or calling, and, [2] at the expiration of his term of service, must give him or her fifty dollars in gold, and [3] two whole new suits of clothes, to be worth in the aggregate at least sixty dollars gold. [Amended, Statutes 1905, p. 561.]

### **Master to keep apprentice within the state.**

§ 269. A master must not remove his apprentice out of the state, and must pay and deliver to him the money, clothes, and other property to which he is entitled under the indenture of apprenticeship, to be held by him as his sole property. [Amended, Statutes 1905, p. 562.]

### **Inquiry into treatment of minor apprentices.**

§ 270. Parents and guardians and such court must, from time to time, inquire into the treatment of children bound by them respectively, or with their approval, and the judges of such courts are responsible for the charge of apprentices bound by a court or with its approval, and must defend them from all cruelty, neglect, breach of contract, or misconduct on the part of their masters. [Amended, Statutes 1905, p. 562.]

### **Hearing of complaints of apprentices.**

§ 271. The superior court must hear the complaints of apprentices who reside within the county against their masters, alleging [1] undeserved or immoderate correction, [2] insufficient allowance of food, raiment, or lodging, [3] want of instruction in the different branches of their trade or calling, or [4] that they are in danger of being removed out of the state, or [5] any violation of the indenture of apprenticeship, and the court must hear and determine such case and make such order therein as will remove the party in the future. [Amended, Statutes 1905, p. 562.]

### **Power of court to discharge apprentice.**

§ 272. The superior court has power, where circumstances require it, [1] to discharge an apprentice from his apprenticeship, and, in case any money or other thing has been paid or contracted to be paid by either party in relation to the apprenticeship, the court must [2] make such order concerning the same as seems just and reason-

able. If the apprentice so discharged was originally bound by the superior court, it must, if found necessary, again bind such minor, if under age. [Amended, Statutes 1905, p. 562.]

**Liability of master for breach of covenant.**

§ 273. Every master is liable to an action on the indenture for a breach of any covenant thereof on his part. All damages recovered in such action, after deducting necessary charges in its prosecution, belong to the minor, and must be applied and appropriated to his use by the person recovering it in his behalf, and must be paid to the minor, if a male, at the age of twenty-one years, and if a female, at the age of eighteen years. If no action is brought during the minority of the apprentice, it may be commenced by him in his own name at any time within two years after his coming of age. [Amended, Statutes 1905, p. 562.]

**Liability of apprentice guilty of gross misbehavior.**

§ 274. An apprentice who is guilty of any gross misbehavior, or refusal to do his duty, or wilful neglect thereof, is liable to the complaint of his master in the superior court of the county wherein the apprentice resides. Such complaint must set forth the circumstances of the case, and have attached thereto a citation, signed by the clerk of the court, requiring him and all persons who have covenanted in his behalf to appear and answer the complaint within ten days after the service thereof. The complaint and citation must be served in the manner required for serving civil process. When the parties have answered, or when, though they have not answered, the time therefor allowed after the service of the complaint has expired, the court must proceed to hear and determine the cause, and, if the evidence warrants it, may render judgment that the master be discharged from the contract of apprenticeship and for costs of suit. Such costs may be recovered from the parent or guardian of the minor, if there is any who signed the indenture, and execution therefor may issue accordingly. If there is no parent or guardian liable for such cost, execution may be issued therefor against the minor, or the amount thereof may be recovered in an action against him after he arrives at full age. He is also liable to the master in an action on the indenture for the breach of any covenant on the part of the apprentice contained therein, committed before the master was discharged from the indenture. [Amended, Statutes 1905, p. 562.]

**Enticing away apprentices.**

§ 275. It is unlawful for any person [1] to entice, counsel, or persuade to run away any apprentice, or [2] to harbor or conceal him, knowing him to be a runaway. Any party so offending is guilty of a misdemeanor, and may be fined not more than one hundred dollars, to be recovered by the master in any court having jurisdiction. [Amended, Statutes 1905, p. 563.]



**Release of master moving out of state.**

§ 276. Whenever any master wishes [1] to remove out of the state, or [2] to quit his trade or business, he must appear with his apprentice before the superior court of the county in which the latter resides, and if the court is satisfied that the master has done justice to the apprentice for the time he has had charge of him, the court has power to discharge the master from the indenture and to again bind the apprentice, if necessary. [Amended, Statutes 1905, p. 563.]

**Stock of corporations, how represented.**

§ 313. The shares of stock of an estate of a minor, or insane person, may be represented by his guardian, and of a deceased person by his executor or administrator, and, except when otherwise agreed, all shares of stock standing on the books of a corporation in the name of any person as pledgee or trustee, may be represented or voted by such pledgee or trustee only when such pledger or beneficial owner fails to represent and vote the same. [Amended, Statutes 1911, p. 318.]

**Married woman may transfer stock.**

§ 325. Shares of stock in corporations standing on the books of the corporation in the name of a married woman may be transferred by her, her agent or attorney, without the signature of her husband, and in the same manner as if such married woman were a feme sole. All dividends payable upon any of such shares of stock may be paid to her, her agent or attorney, in the same manner as if she were unmarried; and any proxy or power given by her, touching any of such shares, is valid and binding, and neither it nor any receipt for dividends need be signed by her husband. [Amended, Statutes 1905, p. 397.]

**Minor children, wards, and married women may own stock.**

§ 561. Such shares of stock in homestead corporations as may be acquired by children, the cost of which, and the deposits and assessments on which are paid from the personal earnings of the children, or with gifts from persons other than their male parents, may be taken and held for them by their parents or guardians. Married women may hold such shares as they acquire with their personal earnings, or those of their children, voluntarily bestowed therefor, or from property bequeathed or given to them by persons other than their husbands.

**Married women and minors may own stock.**

§ 575. Married women and minors may, in their own right, make and draw deposits and draw dividends, and give valid receipts therefor [in savings and loan corporations].

## **SOCIETIES FOR THE PREVENTION OF CRUELTY TO CHILDREN AND ANIMALS.**

### **Formation of humane corporations.**

§ 607. Corporations may be formed by any number of persons not less than five, a majority of whom must be citizens and residents of this state, under the general provisions of this code, for the purpose of the prevention of cruelty to children or animals, or both [Enacted, Statutes 1905, p. 590.]

### **Power to receive and dispose of property.**

§ 607a. Every such corporation may take and hold, by gift, purchase, devise, or bequest, any property, real or personal, and dispose of the same at its pleasure; but it must not hold real property the annual income of which exceeds fifty thousand dollars. [Enacted, Statutes 1905, p. 590.]

### **Complaints for violating law.**

§ 607b. Any such corporation, or any member or officer thereof, may prefer a complaint against any person or persons, before any court or magistrate having jurisdiction, for the violation of any law relating to or affecting children or animals, and may aid in the prosecution of any such offender before such court or magistrate in any proceeding taken. [Enacted, Statutes 1905, p. 590.]

### **Magistrates and police officers to aid the corporation.**

§ 607c. All magistrates, constables, sheriffs, and officers of police must, as occasion may require, aid any such corporation, its officers, members, and agents, in the enforcement of all laws which are now or may be hereafter enacted relating to or affecting children or animals. [Enacted, Statutes 1905, p. 590.]

### **Preexisting corporations.**

§ 607d. The provisions of this title extend to all corporations heretofore formed and existing for the prevention of cruelty to children or animals, but do not extend or apply to any association, society, or corporation which uses or specifies a name or style the same, or substantially the same, as that of any previously existing society or corporation in this state organized for a like purpose. [Enacted, Statutes 1905, p. 590.]

### **Compensation of societies for prevention of cruelty.**

§ 607e. Every society, incorporated and organized for the prevention of cruelty to animals, or for the prevention of cruelty to children may, in each city, or city and county, or county, where such society exists, while actively engaged in enforcing the provisions of the laws of this state, now or hereafter enacted, for the prevention

of cruelty to animals or children, or arresting, or prosecuting offenders thereunder or preventing cruelty to animals or children, be paid as compensation therefor, from the city or county, or city and county general fund, by the board of supervisors or other governing body thereof a sum not exceeding five hundred dollars per calendar month, in the same manner as other claims against said city or county, or city and county, are paid. [Amended, Statutes 1913, p. 638.]

#### **Appointment of humane officers.**

§ 607f. Any such corporation incorporated for the purpose of the prevention of cruelty to animals may by resolution of its board of directors or trustees duly entered on its minutes appoint any number of its members, who shall be citizens of the State of California as humane officers. Each appointment shall be by separate resolution. Such resolution shall state the full name and place of residence and the business or occupation of the person so appointed and the fact that he is a citizen of the State of California and shall also designate the number of the badge to be allotted to such officer. Every person so appointed must within ten days after his appointment present to the judge of the superior court in and for the county or city and county in which the corporation appointing such officer has its principal place of business a copy of such resolution duly certified to be correct by the president and secretary of such corporation and attested by its seal. The judge shall examine such appointee as to his qualifications and fitness to act as such officer and, if he approves such appointment, shall indorse his approval on said certified copy of said resolution. Said appointee shall thereupon and within said period of ten days file said certified copy with the judge's approval endorsed thereon in the office of the county clerk of said county or city and county and shall at the same time take and subscribe the oath of office prescribed for constables or other peace officers. The county clerk shall thereupon immediately enter in a book to be kept in his office and designated "Record of Humane Officers" the name of such officer, the number of his badge, the name of the corporation appointing him and the date of such filing. At the time of such filing the county clerk shall collect from such officer a fee of fifty cents, which shall be in full for all services to be performed by the county clerk under the provisions of this section. The corporation appointing such officer may revoke such appointment at any time by resolution of its board of directors or trustees, a duly certified copy of which resolution must within five days after its adoption be filed in the office of the county clerk in which the appointment of such officer is recorded and upon such filing the county clerk shall enter the fact of such revocation and the date of the filing thereof opposite the name of such officer in such record of humane officers. Such humane officers after qualifying as above provided shall have power at all places within the state lawfully to prevent the perpetration of any act of cruelty upon any

dumb animal and may use such force as may be necessary to prevent the same and to that end may summon to their aid any bystander. They may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as a constable or other peace officer and may carry such weapons as peace officers are authorized to carry; except that in cities and counties and cities of the first and first and one-half classes no such humane officer shall carry any such weapon unless permission in writing so to do has first been granted to him by the board of police commissioners of such city or city and county. Every humane officer must when making such arrests exhibit and expose a suitable badge to be adopted by the corporation appointing him which shall bear its name and a number. Any person resisting a humane officer in the performance of his duty as provided in this section shall be guilty of a misdemeanor. Any person who has not been appointed and qualified as a humane officer as provided in this section, or whose appointment has been revoked as provided in this section, who shall represent himself to be or shall attempt to act as such officer shall be guilty of a misdemeanor. Any officer of such corporation who shall knowingly or wilfully sign or issue any certificate provided for in this section, which shall be in any material respect false or untrue, shall be guilty of a misdemeanor.

#### **Repealed.**

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed. [Amended, Statutes 1913, p. 511.]

#### **Children who may be arrested and brought before a court or magistrate for examination.**

§ 607g. Any child under the age of sixteen years that comes within any of the following descriptions named:

1. Who is found begging or receiving or gathering alms (whether actually begging, or under the pretext of selling or offering for sale anything), or being in any street, road, or public place for the purpose of so begging, gathering, or receiving alms;

2. Who is found wandering and not having any home or settled place of abode, or proper guardianship, or visible means of subsistence;

3. Who is found destitute, either being an orphan, or having a vicious parent who is undergoing penal servitude or imprisonment;

4. Who frequents the company of reputed thieves or prostitutes, or houses of prostitution or assignation, or dancehouses, concerts, saloons, theaters, or variety halls, or other places of amusement where spirituous, malt, or vinous liquors are sold, without parent or guardian;

5. Who is engaged or used for or in any business, exhibition, vocation, or purpose, in violation of any law of this state;—

Must be arrested and brought before a court or magistrate, and when, upon examination before such court or magistrate, it appears that any such child has been engaged in any of the aforesaid acts, or comes within any of the aforesaid descriptions; or when, upon the examination or conviction of any person having the custody of a child, of a criminal assault upon it, the court or magistrate before whom such examination or conviction is had deems it desirable for the welfare of such child that the person so examined or convicted should be deprived of its custody thereafter; such court or magistrate, when it deems it expedient for the welfare of such child, may commit such child to an orphan asylum, corporation, or society for the prevention of cruelty to children, charitable or other institution, or make such other disposition thereof as now is or hereafter may be provided by law in cases of vagrant, truant, disorderly, pauper, or destitute children. Any corporation, organized under this title, or now existing, for the prevention of cruelty to children, or any officer or member thereof, may institute proceedings under this section for the welfare of such child. [Enacted, Statutes 1905, p. 591.]

#### **Membership.**

§ 643. Any person of full age and sound mind may become a member of an [building and loan] association by taking one or more shares therein and subscribing to the by-laws, and annexing to his signature his post office address. A minor may hold shares in the name of a parent, guardian, or next friend, as trustee. The shares of stock in any such corporation held by any person, to the extent of one thousand dollars, shall be exempt from execution. [Amended, Statutes 1907, p. 923.]

#### **Community property.**

§ 687. Community property is property acquired by husband and wife, or either, during marriage, when not acquired as the separate property of either.

#### **Posthumous children.**

§ 698. When a future interest is limited to successors, heirs, issue, or children, posthumous children are entitled to take in the same manner as if living at the death of their parents.

#### **Conditions restraining marriage.**

§ 710. Conditions [of ownership] imposing restraints upon marriage, except upon the marriage of a minor, are void; but this does not affect limitations where the intent was not to forbid marriage, but only to give the use until marriage. [Amended, Code Amdts. 1873-74, p. 218.]

### **Lease of lots.**

§ 718. No lease or grant of any town or city lot for a longer period than ninety-nine years, in which shall be reserved any rent or service of any kind, shall be valid; *provided*, that the property of any municipality, or any minor or incompetent person, shall not be leased for a longer period than ten years, \* \* \*. [Amended, Statutes 1917, p. 798.]

### **Accumulation of income.**

§ 724. An accumulation of the income of property, for the benefit of one or more persons, may be directed by any will or transfer in writing sufficient to pass the property out of which the fund is to arise, as follows:

1. If such accumulation is directed to commence on the creation of the interest out of which the income is to arise it must be made for the benefit of one or more minors then in being, and terminate at the expiration of their minority; or,

2. If such accumulation is directed to commence at any time subsequent to the creation of the interest out of which the income is to arise, it must commence within the time in this title permitted for the vesting of future interests, and during the minority of the beneficiaries, and terminate at the expiration of such minority.

### **When other directions void in part.**

§ 725. If in either of the cases mentioned in the last section the direction for an accumulation is for a longer term than during the minority of the beneficiaries, the direction only, whether separable or not from other provisions of the instrument, is void as respects the time beyond such minority.

### **Application of income.**

§ 726. When a minor for whose benefit an accumulation has been directed is destitute of other sufficient means of support and education, the proper court, upon application, may direct a suitable sum to be applied thereto out of the fund.

### **Future interests, when defeated.**

§ 739. A future interest, depending on the contingency of the death of any person without successors, heirs, issue, or children, is defeated by the birth of a posthumous child of such person, capable of taking by succession.

### **Assignment of wages.**

§ 955. No assignment of, or order for wages or salary shall be valid unless made in writing by the person by whom the said wages or salary are earned and no assignment of, or order for, wages or salary made by a married person shall be valid unless the written consent of the husband

or wife of the person making such assignment or order is attached to such assignment or order; and no assignment or order for wages or salary of a minor shall be valid unless the written consent of a parent or the guardian of such minor is attached to such order or assignment. No assignment of, or order for, wages or salary shall be valid unless at the time of the making thereof such wages or salary have been earned, except for the necessities of life and then only to the person or persons furnishing such necessities of life directly and then only for the amount needed to furnish such necessities. Any power of attorney to assign or collect wages or salary shall be revokable at any time by the maker thereof. [Enacted, Statutes 1913, p. 537.]

**Grant by married woman, how acknowledged.**

§ 1093. A grant or conveyance of real property made by a married woman may be made, executed, and acknowledged in the same manner and has the same effect as if she were unmarried. [Amended, Statutes 1895, p. 53.]

**Power of attorney of married woman.**

§ 1094. A married woman may make, execute, and revoke powers of attorney for the sale, conveyance, or encumbrance of her real or personal estate, which shall have the same effect as if she were unmarried, and may be acknowledged in the same manner as a grant of real property. [Amended, Statutes 1895, p. 39.]

**Conveyance by married woman.**

§ 1187. A conveyance by a married woman has the same effect as if she were unmarried, and may be acknowledged in the same manner. [Amended, Statutes 1891, p. 137.]

**Validation of defectively acknowledged deed, etc.**

§ 1207. Any instrument affecting the title to real property, including any instrument executed by a married woman on or after the first day of July, 1891, which was, previous to the first day of January, one thousand nine hundred and fifteen, copied into the proper book of record, kept in the office of any county recorder, imparts, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, or informality in the execution of the instrument, or in the certificate of acknowledgment thereof, or the absence of any such certificate; but nothing herein affects the rights of purchasers or encumbrancers previous to the taking effect of this act. Duly certified copies of the record of any such instrument may be read in evidence with like effect as copies of an instrument duly acknowledged and recorded; *provided*, when such copying in the proper book of record occurred within fifteen years prior to the trial of the action, it is shown first that the original instrument was genuine. [Amended, Statutes 1915, p. 1211.]

## HOMESTEADS.

### Homestead.

§ 1237. The homestead consists of the dwelling-house in which the claimant resides, and the land on which the same is situated, selected as in this title provided. [Amended, Code Amdts. 1873-74, p. 228.]

### From what may be selected.

§ 1238. If the claimant be married, the homestead may be selected from the community property, or the separate property of the husband, or, with the consent of the wife, from her separate property. When the claimant is not married, but is the head of a family, within the meaning of section one thousand two hundred and sixty-one, the homestead may be selected from any of his or her property. [Amended, Code Amdts. 1873-74, p. 229.]

### From what not.

§ 1239. The homestead can not be selected from the separate property of the wife, without her consent, shown by her making or joining in making the declaration of homestead. [Amended, Code Amdts. 1873-74, p. 229.]

### Exempt from forced sale.

§ 1240. The homestead is exempt from execution or forced sale, except as in this title provided.

### Subject to.

§ 1241. The homestead is subject to execution or forced sale in satisfaction of judgments obtained:

1. Before the declaration of homestead was filed for record, and which constitute liens upon the premises.
2. On debts secured by mechanics, contractors, subcontractors, artisans, architects, builders, laborers of every class, materialmen's or vendors' liens upon the premises.
3. On debts secured by mortgages on the premises, executed and acknowledged by husband and wife, or by an unmarried claimant.
4. On debts secured by mortgages on the premises, executed and recorded before the declaration of homestead was filed for record. [Amended, Statutes 1887, p. 81.]

### How conveyed or incumbered.

§ 1242. The homestead of a married person can not be conveyed or incumbered, unless the instrument by which it is conveyed or incumbered is executed and acknowledged by both husband and wife.



### **How abandoned.**

§ 1243. A homestead can be abandoned only by a declaration of abandonment, or a grant thereof, executed and acknowledged:

1. By the husband and wife, if the claimant is married;
2. By the claimant, if unmarried.

§ 1244. A declaration of abandonment is effectual only from the time it is filed in the office in which the homestead was recorded.

### **Proceedings on execution against homestead.**

§ 1245. When an execution for the enforcement of a judgment obtained in a case not within the classes enumerated in section one thousand two hundred and forty-one is levied upon the homestead, the judgment creditor may at any time within sixty days thereafter apply to the superior court of the county in which the homestead is situated for the appointment of persons to appraise the value thereof and if such application shall not be made within sixty days after the levy of such execution the lien of the execution shall cease at the expiration of said period, and no execution based upon the same judgment shall thereafter be levied upon the homestead. [Amended, Statutes 1911, p. 888.]

§ 1246. The application must be made upon a verified petition of the judgment creditor showing:

1. The fact that an execution has been levied upon the homestead within sixty days prior to the filing of said petition.
2. A description of the homestead and the name of the claimant.
3. That the value of the homestead exceeds the amount of the homestead exemption.
4. That no previous execution arising out of the same judgment has been levied upon said homestead. [Amended, Statutes 1911, p. 889.]

§ 1247. The petition must be filed with the clerk of the superior court. [Amended, Code Amdts. 1880, p. 8.]

§ 1248. Within ninety days from the date of filing the petition, a copy thereof, with the notice of the time and place of hearing, must be served upon the claimant or his attorneys at least two days before the hearing; and if such notice shall not be so served, the lien of the execution shall cease at the expiration of said period of ninety days, and no execution based upon the same judgment shall thereafter be levied upon the homestead. [Amended, Statutes 1911, p. 890.]

§ 1249. At the hearing the judge may, upon proof of the service of a copy of the petition and notice, and of the facts stated in the petition, appoint three disinterested residents of the county to appraise the value of the homestead.

§ 1250. The persons appointed, before entering upon the performance of their duties must take an oath to faithfully perform the same.

§ 1251. They must view the premises and appraise the value thereof, and if the appraised value exceeds the homestead exemption they must determine whether the land claimed can be divided without material injury.

§ 1252. Within fifteen days after their appointment they must make to the judge a report in writing, which report must show the appraised value and their determination upon the matter of a division of the land claimed.

§ 1253. If, from the report, it appears to the judge that the land claimed can be divided without material injury, he must, by an order, direct the appraisers to set off to the claimant so much of the land, including the residence, as will amount in value to the homestead exemption, and the execution may be enforced against the remainder of the land.

§ 1254. If, from the report, it appears to the judge that the land claimed exceeds in value the amount of the homestead exemption, and that it can not be divided, he must make an order directing its sale under the execution.

§ 1255. At such sale no bid must be received, unless it exceeds the amount of the homestead exemption.

§ 1256. If the sale is made, the proceeds thereof, to the amount of the homestead exemption, must be paid to the claimant, and the balance applied to the satisfaction of the execution.

#### **Money equal from homestead exemption protected.**

§ 1257. The money paid to the claimant is entitled, for the period of six months thereafter, to the same protection against legal process and the voluntary disposition of the husband, which the law gives to the homestead. [Amended, Code Amdts. 1873-74, p. 230.]

#### **Compensation of appraisers.**

§ 1258. The court must fix the compensation of the appraisers, not to exceed five dollars per day each for the time actually engaged.  
**Costs.**

§ 1259. The execution creditor must pay the costs of these proceedings in the first instance; but in the cases provided for in sections twelve hundred and fifty-three and twelve hundred and fifty-four the amount so paid must be added as costs on execution, and collected accordingly.

#### **Who may select homestead.**

§ 1260. Homesteads may be selected and claimed:

1. Of not exceeding five thousand dollars in value by any head of a family;
2. Of not exceeding one thousand dollars in value by any other person.

**Head of a family defined.**

§ 1261. The phrase "head of a family," as used in this title, includes within its meaning:

1. The husband, when the claimant is a married person.
2. Every person who has residing on the premises with him or her, and under his or her care and maintenance, either: (1) His or her minor child, or minor grandchild, or the minor child of his or her deceased wife or husband; (2) a minor brother or sister, or the minor child of a deceased brother or sister.
3. A father, mother, grandfather, or grandmother.
4. The father, mother, grandfather, or grandmother of a deceased husband or wife.
5. An unmarried sister, or any other of the relatives mentioned in this section, who have attained the age of majority, and are unable to take care of or support themselves. [Amended, Statutes 1893, p. 123.]

**HOMESTEAD OF THE HEAD OF A FAMILY.****Mode of selection.**

§ 1262. In order to select a homestead, the husband or other head of a family, or in case the husband has not made such selection, the wife must execute and acknowledge, in the same manner as a grant of real property is acknowledged, a declaration of homestead, and file the same for record. [Amended, Code Amdts. 1873-74, p. 230.]

**Declaration of homestead.**

§ 1263. The declaration of homestead must contain:

1. A statement, showing that the person making it is the head of a family, and, if the claimant is married, the name of the spouse; or, when the declaration is made by the wife, showing that her husband has not made such declaration, and that she therefore makes the declaration for their joint benefit;
2. A statement that the person making it is residing on the premises, and claims them as a homestead;
3. A description of the premises;
4. An estimate of their actual cash value. [Amended, Statutes 1905, p. 604.]

**Declaration must be recorded.**

§ 1264. The declaration must be recorded in the office of the recorder of the county in which the land is situated.

**Tenure by which homestead is held.**

§ 1265. From and after the time the declaration is filed for record, the premises therein described constitute a homestead. If the selection was made by a married person from the community property, or from the separate property of the spouse making the selection or

joining therein, the land so selected, on the death of either of the spouses, vests in the survivor, subject to no other liability than such as exists or has been created under the provisions of this title; in other cases, upon the death of the person whose property was selected as a homestead, it shall go to the heirs or devisees, subject to the power of the superior court to assign the same for a limited period to the family of the decedent; but in no case shall it, or the products, rents, issues or profits thereof be held liable for the debts of the owner, except as provided in this title; and should the homestead be sold by the owner, the proceeds arising from such sale to the extent of the value allowed for a homestead exemption as provided in this title shall be exempt to the owner of the homestead for a period of six months next following such sale. [Amended, Statutes 1911, p. 61.]

### **ALIENATION OF HOMESTEADS OF INSANE PERSONS:**

#### **Petition for sale or mortgage.**

§ 1269a. In case of a homestead, if either the husband or wife becomes hopelessly insane, the husband or wife not insane may petition the superior court of the county in which such homestead is situated for an order permitting the husband or wife, not insane, to sell and convey, or mortgage, such homestead to raise moneys to satisfy a lien or charge thereon, or to provide for the support and care either of the sane or insane spouse, or of their minor children. Such petition must be subscribed and sworn to by the applicant, setting forth the name and age of the insane husband or wife; the number, age, and sex of the children, if any, of such insane husband or wife; a description of the premises constituting the homestead; the value of the same; the county in which it is situated; and such facts, in addition to that of the insanity of the husband or wife, relating to the circumstances and necessities of the applicant and his or her family, as he or she may rely upon in support of the petition. [Enacted, Statutes 1905, p. 725.]

#### **Notice of application for order.**

§ 1269b. Notice of the application for such order must be given by publication of the same, in a newspaper published in the county in which such homestead is situated, if there is a newspaper published therein, once each week for three successive weeks, prior to the hearing of such application, and a copy of such notice must also be personally served upon the nearest male relative of such insane husband or wife, resident in this state, at least three weeks prior to such application; and in case there is no such male relative known to the applicant, a copy of such notice must be so served upon the public administrator of the county in which such homestead is situated; and in such case it is the duty of such public administrator to

appear, and represent the interests of such insane person. For all such services rendered by the public administrator he must be allowed a reasonable fee, to be fixed by the court, and the same must be taxed as costs against the person making application for the order herein provided for. [Enacted, Statutes 1905, p. 726.]

**When order may be made.**

§ 1269c. If it appears to the court that such husband or wife is hopelessly insane, the court may make an order permitting the husband or wife, not insane, to sell and convey, or mortgage, such homestead, and thereafter any sale, conveyance, or mortgage made in pursuance of such order is as valid and effectual as if the property affected thereby was the absolute property of the person making such sale, conveyance, or mortgage. If a sale is ordered it must be reported to and confirmed by the court. Such husband or wife must, before executing any mortgage or conveyance, give a bond, to be approved by the judge of the court, in double the amount of the mortgage, or double the value of the property to be sold, conditioned to account for the proceeds of the mortgage or sale and to apply such proceeds only as the court may direct. [Enacted, Statutes 1905, p. 726.]

**WILLS.**

**Who may make a will.**

§ 1270. Every person over the age of eighteen years, of sound mind, may, by last will, dispose of all his estate, real and personal, and such estate not disposed of by will is succeeded to as provided in title seven of this part, being chargeable in both cases with the payment of all the decedent's debts, as provided in the Code of Civil Procedure.

§ 1271. Repealed.

**Will procured by fraud.**

§ 1272. A will, or part of a will, procured to be made by duress, menace, fraud, or undue influence may be denied probate; and a revocation, procured by the same means, may be declared void.

**Will of married woman.**

§ 1273. A married woman may dispose of all her separate estate by will, without the consent of her husband, and may alter or revoke the will in like manner as if she were single. Her will must be executed and proved in like manner as other wills. [Amended, Code Amdts. 1873-74, p. 232.]

**What may pass by will.**

§ 1274. Every estate and interest in real or personal property, to which heirs, husband, widow, or next of kin might succeed, may be disposed of by will, except as otherwise provided in sections fourteen hundred and one and fourteen hundred and two.

### **Who may take by will.**

§ 1275. A testamentary disposition may be made to any person capable by law of taking the property so disposed of, except that corporations other than counties, municipal corporations, and corporations formed for scientific, literary, or solely educational or hospital purposes, can not take under a will, unless expressly authorized by statute; subject, however, to the provisions of section thirteen hundred and thirteen. [Amended, Statutes 1905, p. 605.]

### **Written will.**

§ 1276. Every will, other than a nuncupative will, must be in writing; and every will, other than an olographic will, and a nuncupative will, must be executed and attested as follows:

1. It must be subscribed at the end thereof by the testator himself, or some person in his presence and by his direction must subscribe his name thereto;

2. The subscription must be made in the presence of the attesting witnesses, or be acknowledged by the testator to them to have been made by him or by his authority;

3. The testator must, at the time of subscribing or acknowledging the same, declare to the attesting witnesses that the instrument is his will; and,

4. There must be two attesting witnesses, each of whom must sign the same as a witness, at the end of the will, at the testator's request and in his presence. [Amended, Statutes 1905, p. 605.]

### **An holographic will.**

§ 1277. An [h]olographic will is one that is entirely written, dated, and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of this state, and need not be witnessed.

### **Witness to add residence.**

§ 1278. A witness to a written will must write, with his name, his place of residence; and a person who subscribes the testator's name, by his direction, must write his own name as a witness to the will. But a violation of this section does not affect the validity of the will.

### **Mutual will.**

§ 1279. A conjoint or mutual will is valid, but it may be revoked by any of the testators, in like manner with any other will.

### **Competency of subscribing witness.**

§ 1280. If the subscribing witnesses to a will are competent at the time of attesting its execution, their subsequent incompetency, from whatever cause it may arise, does not prevent the probate and allowance of the will, if it is otherwise satisfactorily proved.

### **Conditional will.**

§ 1281. A will, the validity of which is made by its own terms conditional, may be denied probate, according to the event, with reference to the condition.

### **Gifts to subscribing witnesses void.**

§ 1282. All beneficial devises, legacies, and gifts whatever, made or given in any will to a subscribing witness thereto, are void, unless there are two other competent subscribing witnesses to the same; but a mere charge on the estate of the testator for the payment of debts does not prevent his creditors from being competent witnesses to his will.

### **Witness who is a devisee.**

§ 1283. If a witness, to whom any beneficial devise, legacy, or gift, void by the preceding section, is made, would have been entitled to any share of the estate of the testator, in case the will should not be established, he succeeds to so much of the share as would be distributed to him, not exceeding the devise or bequest made to him in the will, and he may recover the same of the other devisees or legatees named in the will, in proportion to and out of the parts devised or bequeathed to them. [Amended, Code Amdts. 1873-74, p. 232.]

§ 1284. Repealed.

### **Will made out of state.**

§ 1285. No will made out of this state is valid as a will in this state, unless executed according to the provisions of this chapter, except that a will made in a state or country in which the testator is domiciled at the time of his death, and valid as a will under the laws of said state or country, is valid in this state so far as the same relates to personal property, subject, however, to the provisions of section thirteen hundred and thirteen. [Amended, Statutes 1905, p. 606.]

§ 1286. Repealed.

### **Republication by codicil.**

§ 1287. The execution of a codicil, referring to a previous will, has the effect to republish the will, as modified by the codicil.

### **Nuncupative will.**

§ 1288. A nuncupative will is not required to be in writing, nor to be declared or attested with any formalities.

### **Requisites of a valid nuncupative will.**

§ 1289. To make a nuncupative will valid, and to entitle it to be admitted to probate, the following requisites must be observed:

1. The estate bequeathed must not exceed in value the sum of one thousand dollars.

2. It must be proved by two witnesses who were present at the making thereof, one of whom was asked by the testator, at the time, to bear witness that such was his will, or to that effect.

3. The decedent must, at the time, have been in actual military service in the field, or doing duty on shipboard at sea, and in either case in actual contemplation, fear, or peril of death, or the decedent must have been, at the time in expectation of immediate death from an injury received the same day.

#### **Proof of nuncupative wills.**

§ 1290. No proof must be received of any nuncupative will, unless it is offered within six months after speaking the testamentary words, nor unless the words, or the substance thereof, were reduced to writing within thirty days after they were spoken.

#### **Probate of nuncupative wills.**

§ 1291. No probate of any nuncupative will must be granted for fourteen days after the death of the testator, nor must any nuncupative will be at any time proved, unless the testamentary words, or the substance thereof, be first committed to writing, and process issued to call in the widow, or other persons interested, to contest the probate of such will, if they think proper.

#### **Written will, how revoked.**

§ 1292. Except in the cases in this chapter mentioned, no written will, nor any part thereof, can be revoked or altered otherwise than:

1. By a written will, or other writing of the testator, declaring such revocation or alteration, and executed with the same formalities with which a will should be executed by such testator; or,

2. By being burnt, torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking the same, by the testator himself, or by some person in his presence and by his direction.

#### **Evidence of revocation.**

§ 1293. When a will is canceled or destroyed by any other person than the testator, the direction of the testator and the fact of such injury or destruction, must be proved by two witnesses.

§ 1294. Repealed.

#### **Revocation of duplicate.**

§ 1295. The revocation of a will, executed in duplicate, may be made by revoking one of the duplicates.

#### **Revocation by subsequent will.**

§ 1296. A prior will is not revoked by a subsequent will, unless the latter contains an express revocation, or provisions wholly inconsistent with the terms of the former will; but in other cases the prior will remains effectual so far as consistent with the provisions of the subsequent will.



**Antecedent not revived by revocation of subsequent will.**

§ 1297. If, after making a will, the testator duly makes and executes a second will, the destruction, cancellation, or revocation of such second will does not revive the first will, unless it appears by the terms of such revocation that it was the intention to revive and give effect to the first will, or unless after such destruction, cancellation, or revocation, the first will is duly republished.

**Revocation by marriage and birth of issue.**

§ 1298. If, after having made a will, the testator marries, and has issue of such marriage, born either in his lifetime or after his death, and the wife or issue survives him, the will is revoked, unless [1] provision has been made for such issue by some settlement, or [2] unless such issue are provided for in the will, or [3] in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of such revocation can be received.

**Effect of marriage of a man on his will.**

§ 1299. If, after making a will, the testator marries, and the wife survives the testator, the will is revoked, unless [1] provision has been made for her by marriage contract, or [2] unless she is provided for in the will, or [3] in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of revocation must be received.

**Effect of a marriage of a woman on her will.**

§ 1300. A will, executed by a woman, is revoked by her subsequent marriage, and is not revived by the death of her husband. [Amended, Statutes 1905, p. 606.]

**Contract of sale not a revocation.**

§ 1301. An agreement made by a testator, for the sale or transfer of property disposed of by a will previously made, does not revoke such disposal; but the property passes by the will, subject to the same remedies on the testator's agreement, for a specific performance or otherwise against the devisees or legatees, as might be had against the testator's successors, if the same had passed by succession.

**Mortgage not a revocation of will.**

§ 1302. A charge or encumbrance upon any estate, for the purpose of securing the payment of money or the performance of any covenant or agreement, is not a revocation of any will relating to the same estate which was previously executed; but the devise and legacies therein contained must pass, subject to such charge or encumbrance.

**Conveyance, when not a revocation.**

§ 1303. A conveyance, settlement, or other act of a testator, by which his interest in a thing previously disposed of by his will is altered, but not wholly divested, is not a revocation; but the will passes the property which would otherwise devolve by succession.

**When it is a revocation.**

§ 1304. If the instrument by which an alteration is made in the testator's interest in a thing previously disposed of by his will expresses his intent that it shall be a revocation, or if it contains provisions wholly inconsistent with the terms and nature of the testamentary disposition, it operates as a revocation thereof, unless such inconsistent provisions depend on a condition or contingency by reason of which they do not take effect.

**Revocation of codicils.**

§ 1305. The revocation of a will revokes all its codicils.

**Child born after making will, unprovided for, to succeed.**

§ 1306. Whenever a testator has a child born after the making of his will, either in his lifetime or after his death, and dies leaving such child unprovided for by any settlement, and neither provided for nor in any way mentioned in his will, the child succeeds to the same portion of the testator's real and personal property that he would have succeeded to if the testator had died intestate. But such succession does not impair or affect the validity of any sale of property made by authority of such will in accordance with the provisions of section fifteen hundred and sixty-one of the Code of Civil Procedure. [Amended, Statutes 1905, p. 606.]

**Children of testator unprovided for by his will to succeed.**

§ 1307. When any testator omits to provide in his will [1] for any of his children, or [2] for the issue of any deceased child, unless it appears that such omission was intentional, such child, or the issue of such child, has the same share in the estate of the testator as if he had died intestate, and succeeds thereto as provided in the preceding section. But such succession does not impair or affect the validity of any sale of property made by authority of such will in accordance with the provisions of section fifteen hundred and sixty-one of the Code of Civil Procedure. [Amended, Statutes 1905, p. 606.]

**Share of afterborn child.**

§ 1308. When any share of the estate of a testator is assigned to a child born after the making of a will, or to a child, or the issue of a child, omitted in the will, as hereinbefore mentioned, the same must first be taken from the estate not disposed of by the will, if any; if that is not sufficient so much as may be necessary must be taken from all the devisees or legatees, in proportion to the value they may

respectively receive under the will, unless the obvious intention of the testator in relation to some specific devise or bequest, or other provision in the will, would thereby be defeated; in such case, such specific devise, legacy, or provision may be exempted from such apportionment, and a different apportionment, consistent with the intention of the testator, may be adopted.

**Advancement during lifetime of testator.**

§ 1309. If such [1] children, or [2] their descendants, so unprovided for, had an equal proportion of the testator's estate bestowed on them in the testator's lifetime, by way of advancement, they take nothing in virtue of the provisions of the three preceding sections.

**Death of legatee, before testator.**

§ 1310. When any estate is devised or bequeathed to any child, or other relation of the testator, and the devisee or legatee dies before the testator, leaving lineal descendants, such descendants take the estate so given by the will, in the same manner as the devisee or legatee would have done had he survived the testator. [Amended, Statutes 1905, p. 150.]

**Devises of land, how construed.**

§ 1311. Every devise of land in any will conveys all the estate of the devisor therein, which he could lawfully devise, unless it clearly appears by the will that he intended to convey a less estate.

**Will to pass rights acquired after the making.**

§ 1312. Any estate, right, or interest, in lands acquired by the testator after the making of his will, passes thereby and in like manner as if title thereto was vested in him at the time of making the will, unless the contrary manifestly appears by the will to have been the intention of the testator. Every will made in express terms, devising, or in any other terms denoting the intent of the testator to devise all the real estate of such testator, passes all the real estate which such testator was entitled to devise at the time of his decease. [Amended, Code Amdts. 1873-74, p. 233.]

**Charitable, etc., bequests.**

§ 1313. No estate, real or personal, shall be bequeathed or devised to any charitable or benevolent society or corporation, or to any person or persons in trust for charitable uses, except the same be done by will duly executed at least thirty days before the decease of the testator; and if so made at least thirty days prior to such death, such devise or legacy and each of them shall be valid; *provided*, that no such devise or bequest shall collectively exceed one-third of the estate of the testator, leaving legal heirs, and in such case a pro rata deduction from such devises or bequests shall be made so as to reduce the aggregate thereof to one-third of such estate; and all dis-

positions of property made contrary hereto shall be void, and go to the residuary legatee or devisee, next of kin, or heirs, according to law; *and provided, further*, that bequests and devises to the state, or to any state institution, or for the use or benefit of the state or any state institution, are excepted from the restrictions of this section. [Amended, Statutes 1917, p. 272.]

**When child born after testator's death takes under will.**

§ 1339. A child conceived before, but not born until after a testator's death, or any other period when a disposition to a class vests in right or in possession, takes, if answering to the description of the class.

**Legacies to kindred.**

§ 1361. Legacies to husband, widow, or kindred of any class are chargeable [for payment of debts] only after legacies to persons not related to the testator.

## SUCCESSION.

**Succession defined.**

§ 1383. Succession is the coming in of another to take the property of one who dies without disposing of it by will.

**Intestate's estate, to whom passes.**

§ 1384. The property, both real and personal, of one who dies without disposing of it by will, passes to the heirs of the intestate, subject to the control of the probate court, and to the possession of any administrator appointed by that court, for the purposes of administration. [Amended, Code Amdts. 1873-74, p. 236.]

§ 1385. Repealed.

**Succession and distribution of property.**

§ 1386. When any person having title to any estate not otherwise limited by marriage contract, dies without disposing thereof by will, it is succeeded to and must be distributed, unless otherwise expressly provided in this code and the Code of Civil Procedure, subject to the payment of his debts, in the following manner:

1. If the decedent leaves a surviving husband or wife, and only one child, or the lawful issue of one child, in equal shares to the surviving husband, or wife and child, or issue of such child. If the decedent leaves a surviving husband or wife, and more than one child living, or one child living and the lawful issue of one or more deceased children, one-third to the surviving husband or wife, and the remainder in equal shares to his children and to the lawful issue of any deceased child, by right of representation; but if there is no child of decedent living at his death, the remainder goes to all of his lineal descendants; and if all the descendants are in the same degree of

kindred to the decedent, they share equally, otherwise they take according to the right of representation. If the decedent leaves no surviving husband or wife, but leaves issue, the whole estate goes to such issue; and if such issue consists of more than one child living, or one child living and the lawful issue of one or more deceased children, then the estate goes in equal shares to the children living, or to the child living and the issue of the deceased child or children by right of representation;

2. If the decedent leaves no issue, the estate goes one-half to the surviving husband or wife, and the other half to the decedent's father and mother in equal shares, and if either is dead the whole of said half goes to the other. If there is no father or mother, then one-half goes in equal shares to the brothers and sisters of decedent and to the children or grandchildren of any deceased brother or sister by right of representation. If the decedent leaves no issue, nor husband nor wife, the estate must go to his father and mother in equal shares, or if either is dead then to the other;

3. If there is neither issue, husband, wife, father, nor mother then in equal shares to the brothers and sisters of decedent and to the children or grandchildren of any deceased brother or sister, by right of representation;

4. If the decedent leaves a surviving husband or wife, and neither issue, father, mother, brother, sister, nor the children or grandchildren of a deceased brother or sister, the whole estate goes to the surviving husband or wife;

5. If the decedent leaves neither issue, husband, wife, father, mother, brother, nor sister, the estate must go to the next of kin, in equal degree, excepting that, when there are two or more collateral kindred, in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor must be preferred to those claiming through an ancestor more remote;

6. If the decedent leaves several children, or one child and the issue of one or more children, and any such surviving child dies under age and not having been married, all the estate that came to the deceased child by inheritance from such decedent descends in equal shares to the other children of the same parent and to the issue of any such other children who are dead, by right of representation;

7. If, at the death of such child, who dies under age, not having been married, all the other children of his parents are also dead, and any of them has left issue, the estate that came to such child by inheritance from his parent descends to the issue of all other children of the same parent; and if all the issue are in the same degree of kindred to the child, they share the estate equally, otherwise they take according to the right of representation;

8. If the deceased is a widow, or widower, and leaves no issue, and the estate, or any portion thereof, was common property of such decedent and his or her deceased spouse, while such spouse was living, such property goes in equal shares to the children of such

deceased spouse and to the descendants of such children by right of representation, and if none, then one-half of such common property goes to the father and mother of such decedent in equal shares, or to the survivor of them if either be dead, or if both be dead, then in equal shares to the brothers and sisters of such decedent and to the descendants of any deceased brother or sister by right of representation, and the other half goes to the father and mother of such deceased spouse in equal shares, or to the survivor of them if either be dead, or if both be dead, then in equal shares to the brothers and sisters of such deceased spouse and to the descendants of any deceased brother or sister by right of representation. If the estate, or any portion thereof, was separate property of such deceased spouse, while living, and came to such decedent from such spouse by descent, devise, or bequest, such property goes in equal shares to the children of such spouse and to the descendants of any deceased child by right of representation, and if none, then to the father and mother of such spouse, in equal shares, or to the survivor of them if either be dead, or if both be dead, then in equal shares to the brothers and sisters of such spouse and to the descendants of any deceased brother or sister by right of representation.

9. If the decedent leaves no husband, wife, or kindred, and there are no heirs to take his estate or any portion thereof, under subdivision eight of this section, the same escheats to the state for the support of the common schools. [Amended, Statutes 1907, p. 567.]

#### **Illegitimate children to inherit.**

§ 1387. Every illegitimate child is an heir of the person who, in writing signed in the presence of a competent witness, acknowledges himself to be the father of such child; and in all cases is an heir of his mother; and inherits his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock; but he does not represent his father or mother by inheriting any part of the estate of his or her kindred, either lineal or collateral, unless, before his death, his parents shall have intermarried, and his father, after such marriage, acknowledges him as his child, or adopts him into his family; in which case such child and all the legitimate children are considered brothers and sisters, and on the death of either of them, intestate, and without issue, the others inherit his estate, and are heirs, as hereinbefore provided, in like manner as if all the children had been legitimate; saving to the father and mother, respectively, their rights in the estates of all the children in like manner as if all had been legitimate. The issue of all marriages null in law, or dissolved by divorce, are legitimate.

**Property of illegitimate child is succeeded to, when and how.**

§ 1388. The estate of an illegitimate child, who has been legitimated by the subsequent marriage of its parents, or adopted by the father as provided by section two hundred and thirty, and who dies intestate, is succeeded to as if he were born in lawful wedlock. If such child has not been so legitimated or adopted, his estate goes to his lawful issue, or, if he leaves no issue, to his mother, or in case of her decease, to her heirs at law. [Amended, Statutes 1905, p. 609.]

**Degree of kindred, how computed.**

§ 1389. The degree of kindred is established by the number of generations, and each generation is called a degree.

§ 1390. The series of degrees forms the line; the series of degrees between persons who descend from one another is called direct or lineal consanguinity; and the series of degrees between persons who do not descend from one another, but spring from a common ancestor, is called the collateral line or collateral consanguinity.

§ 1391. The direct line is divided into a direct line descending and a direct line ascending. The first is that which connects the ancestors with those who descend from him. The second is that which connects a person with those from whom he descends.

§ 1392. In the direct line there are as many degrees as there are generations. Thus, the son is, with regard to the father, in the first degree; the grandson in the second; and vice versa with regard to the father and grandfather toward the sons and grandsons.

§ 1393. In the collateral line the degrees are counted by generations from one of the relations up to the common ancestor, and from the common ancestor to the other relations. In such computations the decedent is excluded, the relative included, and the ancestor counted but once. Thus, brothers are related in the second degree; uncle and nephew in the third degree; cousins german in the fourth, and so on.

**Relatives of the half blood.**

§ 1394. Kindred of the half blood inherit equally with those of the whole blood in the same degree, unless the inheritance come to the intestate by descent, devise or gift of some one of his ancestors, in which case all those who are not of the blood of such ancestors must be excluded from such inheritance.

**Advancements constitute part of distributive share.**

§ 1395. Any estate, real or personal, given by the decedent in his lifetime as an advancement to any child, or other heir, is a part of the estate of the decedent for the purposes of division and distribution thereof among his heirs, and must be taken by such child, or other heir, toward his share of the estate of the decedent. [Amended, Statutes 1905, p. 609.]

### **Advancements, when too much, or not enough.**

§ 1396. If the amount of such advancement exceeds the share of the heir receiving the same, he must be excluded from any further portion in the division and distribution of the estate, but he must not be required to refund any part of such advancement; and if the amount so received is less than his share, he is entitled to so much more as will give him his full share of the estate of the decedent.

### **What are advancements.**

§ 1397. All gifts and grants are made as advancements, if expressed in the gift or grant to be so made; or if charged in writing by the decedent as an advancement, or acknowledged in writing as such, by the child or other successor or heir.

### **Value of advancements.**

§ 1398. If the value of the estate so advanced is expressed in the conveyance, or in the charge thereof made by the decedent, or in the acknowledgement of the party receiving it, it must be held as of that value in the division and distribution of the estate; otherwise, it must be estimated according to its value when given, as nearly as the same can be ascertained.

### **When heir, advanced to, dies before decedent.**

§ 1399. If any child, or other heir receiving advancement, dies before the decedent, leaving heirs, the advancement must be taken into consideration in the division and distribution of the estate, and the amount thereof must be allowed accordingly by the representatives of the heirs receiving the advancement, in like manner as if the advancement had been made directly to them. [Amended, Statutes 1905, p. 609.]

### **Inheritance of husband and wife from each other.**

§ 1400. The provisions of the preceding sections of this title, as to the inheritance of the husband and wife from each other, apply only to the separate property of the decedents.

### **Distribution of community property on death of wife.**

§ 1401. Upon the death of the wife, the entire community property, without administration, belongs to the surviving husband, except such portion thereof as may have been set apart to her by judicial decree, for her support and maintenance, which portion is subject to her testamentary disposition, and in the absence of such disposition, goes to her descendants, or heirs, exclusive of her husband. [Amended, Code Amdts. 1873-74, p. 238.]

### **Distribution of common property on death of the husband.**

§ 1402. Upon the death of the husband, one-half of the community property goes to the surviving wife, and the other half is subject to the testamentary disposition of the husband, and in the absence of such



disposition, goes to his descendants, equally, if such descendants are in the same degree of kindred to the decedent; otherwise, according to the right of representation; and in the absence of both such disposition and such descendants, is subject to distribution in the same manner as the separate property of the husband. In case of the dissolution of the community by the death of the husband, the entire community property is equally subject to his debts, the family allowance, and the charges and expenses of administration.

#### **Inheritance by representation.**

§ 1403. Inheritance or succession "by right of representation" takes place when the descendants of any deceased heir take the same share or right in the estate of another person that their parents would have taken if living. Posthumous children are considered as living at the death of their parents.

#### **Aliens may inherit.**

§ 1404. Resident aliens may take in all cases by succession as citizens; and no person capable of succeeding under the provisions of this title is precluded from such succession by reason of the alienage of any relative; but no nonresident foreigner can take by succession unless he appears and claims such succession within five years after the death of the decedent to whom he claims succession.

#### **Succession not claimed.**

§ 1405. Whenever any person dies leaving any property in this state not disposed of by will, and there are no persons entitled to succeed thereto under the laws of this state, the same shall escheat to the state as of the date of the death of the decedent. The property or proceeds of any estate deposited in the state treasury after final decree of distribution or judgment of the superior court by reason of the failure of heirs to make claim thereto may be recovered upon judgment of the superior court or order of the state board of control as provided in the Code of Civil Procedure. [Amended, Statutes 1917, p. 255.]

#### **When the property escheats to the state.**

§ 1406. When such judgment or order is obtained, a certified copy thereof must be filed with the state treasurer as his voucher. Thereupon the property must be delivered, or the proceeds paid, to the claimant, on filing his receipt therefor. If no one succeeds to the estate or the proceeds, as herein provided, the property of the decedent devolves and escheats to the people of the state, and must be placed by the state treasurer to the credit of the school fund. [Amended, Statutes 1905, p. 610.]

#### **Property escheated subject to charge.**

§ 1407. Real property passing to the state under the last section, whether held by the state or its officers, is subject to the same charges

and trusts to which it would have been subject if it had passed by succession, and is also subject to all the provisions of title eight, part three, of the Code of Civil Procedure.

**Successor liable for decedent's obligations.**

§ 1408. Those who succeed to the property of a decedent are liable for his obligations in the cases and to the extent prescribed by the Code of Civil Procedure.

**Persons convicted of murder of decedent, not to succeed.**

§ 1409. No person who has been convicted of the murder of the decedent shall be entitled to succeed to any portion of his estate; but the portion thereof to which he would otherwise be entitled to succeed descends to the other persons entitled thereto under the provisions of this title.

**Who may contract.**

§ 1556. All persons are capable of contracting, except minors, persons of unsound mind, and persons deprived of civil rights.

**Minors, etc.**

§ 1557. Minors and persons of unsound mind, have only such capacity as is defined by part one of division one of this code. [See sections 25-42.]

**Duress.**

§ 1569. Duress consists in:

1. Unlawful confinement of the person of the party, or of the husband or wife of such party, or of an ancestor, descendant, or adopted child of such party, husband, or wife;

2. Unlawful detention of the property of any such person; or,

3. Confinement of such person, lawful in form, but fraudulently obtained, or fraudulently made unjustly harassing or oppressive.

**Menace.**

§ 1570. Menace consists in a threat:

1. Of such duress as is specified in subdivisions one and three of the last section;

2. Of unlawful and violent injury to the person or property of any such person as is specified in the last section; or,

3. Of injury to the character of any such person.

**What contracts must be written.**

§ 1624. The following contracts are invalid, unless the same, or some note or memorandum thereof, is in writing and subscribed by the party to be charged, or by his agent:

\* \* \* \* \*

3. An agreement made upon consideration of marriage other than a mutual promise to marry; \* \* \* [Amended, Statutes 1905, p. 611.]

**Contract in restraint of marriage.**

§ 1676. Every contract in restraint of the marriage of any person, other than a minor, is void.

**Time for notice of loss on casualty or accident insurance policy.**

§ 2633a. No conditions, stipulations or agreements contained in any application for insurance in any foreign or domestic casualty or accident insurance company, or contained in any policy issued by any such company, or in any way made by any such company, limiting the time within which notice of the accident or injury, or death, shall be given to such company to a period of less than twenty days after the happening of the accident, or injury, or death, shall be valid. Said notice may be given to the company insuring, at any time within twenty days after the happening of the accident, or injury, or death and shall be valid and binding on the company. [Enacted, Statutes 1913, p. 677.]

**Breach of promise of marriage.**

§ 3319. The damages for the breach of a promise of marriage rest in the sound discretion of the jury.

**Willful holding over.**

§ 3335. For willfully holding over real property, by a person who entered upon the same, as guardian or trustee for an infant, or by right of an estate terminable with any life or lives, after the termination of the trust or particular estate, without the consent of the party immediately entitled after such termination, the measure of damages is the value of the profits received during such holding over.

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**What can not be specifically enforced.**

§ 3390. The following obligations can not be specifically enforced:

1. An obligation to render personal service;
2. An obligation to employ another in personal service;
3. An agreement to submit a controversy to arbitration;
4. An agreement to perform an act which the party has not power lawfully to perform when required to do so;
5. An agreement to procure the act or consent of the wife of the contracting party, or of any other third person; or,
6. An agreement, the terms of which are not sufficiently certain to make the precise act which is to be done clearly ascertainable.

## CODE OF CIVIL PROCEDURE.

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### Words and terms defined.

§ 17. Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as a natural person; the word "county" includes "city and county"; writing includes printing and typewriting; oath includes affirmation or declaration; and every mode of oral statement, under oath or affirmation, is embraced by the term "testify," and every written one in the term "depone"; signature or subscription includes mark, when the person can not write, his name being written near it by a person who writes his own name as a witness; *provided*, that when a signature is by mark it must, in order that the same may be acknowledged or may serve as the signature to any sworn statement, be witnessed by two persons who must subscribe their own names as witnesses thereto. The following words have in this code the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "property" includes both real and personal property;
2. The words "real property" are coextensive with lands, tenements, and hereditaments;
3. The words "personal property" include money, goods, chattels, things in action, and evidences of debt;
4. The word "month" means a calendar month, unless otherwise expressed;
5. The word "will" includes codicil;
6. The word "writ" signifies an order or precept in writing, issued in the name of the people, or of a court or judicial officer; and the word "process" a writ or summons issued in the course of judicial proceedings;
7. The word "state," when applied to the different parts of the United States, includes the District of Columbia and the territories; and the words "United States" may include the district and territories;
8. The word "section" whenever hereinafter employed, refers to a section of this code, unless some other code or statute is expressly mentioned.
9. The word "affinity" when applied to the marriage relation, signifies the connection existing in consequence of marriage, between each of the married persons and the blood relatives of the other. [Amended, Statutes 1903, p. 134.]

**NOTE**—The Code of Civil Procedure was enacted March 11, 1872. Sections amended or enacted since that date are followed by date of amendment or enactment.

### **Jurisdiction of superior courts.**

§ 76. The superior courts shall have original jurisdiction:

\* \* \* \* \*

4. Of actions of forcible entry and detainer, of proceedings in insolvency, of actions to prevent or abate a nuisance, of all matters of probate, of divorce and for annulment of marriage, and of all such special cases and proceedings as are not otherwise provided for. [Enacted, Code Amdts. 1880, p. 28.]

### **Court sittings, when private.**

§ 125. In an action for divorce, criminal conversation, seduction, or breach of promise of marriage, the court may direct the trial of any issue of fact joined therein to be private, and may exclude all persons except the officers of the court, the parties, their witnesses, and counsel; *provided*, that in any cause the court may, in the exercise of a sound discretion, during the examination of a witness, exclude any or all other witnesses in the cause. [Amended, Code Amdts. 1880, p. 36.]

### **Probation committee.**

§ 131. Subd. 1. The judge of the superior court in and for each county or city and county of the state, or where there are more than one judge of said court, a majority of the judges thereof by an order entered in the minutes of such court, may appoint seven discreet citizens of good moral character, and of either sex, to be known as probation committee, and shall fill all vacancies occurring in such committee. The clerk of said court shall immediately notify each person appointed on said committee and thereupon said persons shall appear before the judge of said superior court in said county and qualify by taking oath, to be entered in the minutes of said superior court, to faithfully perform the duties of a member of such probation committee.

#### **Term of office of committee.**

Subd. 2. The members of such probation committee shall hold office for four years, and until their successors are appointed, provided that of those first appointed, one shall hold office for one year, two for two years, two for three years, and two for four years, the terms for which the respective members first appointed shall hold office to be determined by lot as soon after their appointment as may be. When any vacancy occurs in any probation committee by expiration of the term of office of any member thereof, the successor shall be appointed to hold for the term of four years; when any vacancy occurs for any other reason, the appointee shall hold for the unexpired term of his predecessor.

#### **Compensation.**

Subd. 3. The members of the probation committee shall serve without compensation.

**Committee may examine certain societies, associations, etc.**

Subd. 4. The superior court or any judge thereof may at any time require said probation committee or a probation officer to examine into the qualifications and management of any society, association or corporation, other than a state institution, applying to receive any child or children under this act, and to report to the court, provided that nothing in this section shall be construed as giving any probation committee or probation officer any power to enter any institution without the consent of such institution. It shall be the duty of each probation committee prior to December first in each year to prepare a report in writing on the qualifications and management of all societies, associations and corporations, except state institutions, applying for or receiving any child under this act from the courts of their respective counties, and in said report said committee may make such suggestions or comments as to them may seem fit; said report to be filed in the office of the clerk of the court appointing such committee, for the information of the judges thereof.

**Probation officer and deputies, appointment of.**

Subd. 5. In counties of the first class there shall be one probation officer and not more than five deputy probation officers; in counties of the second class, one probation officer and not more than one deputy probation officer; in all other counties there shall be one probation officer. In any county or city and county additional deputy probation officers may be appointed and their appointment approved or disapproved as hereinafter provided, from time to time when in the opinion of the court it may be necessary, provided that they serve without salary.

**Expenses allowed probation officers.**

Subd. 6. The probation officer and deputy probation officers in all the counties of the state shall be allowed such necessary incidental expenses as may be authorized by a judge of the superior court; and the same shall be a charge upon the county in which the court appointing them has jurisdiction, and the said expenses shall be paid out of the county treasury upon a warrant therefor issued by the said court.

**Appointments, by whom and how made.**

Subd. 7. The offices of probation officers and deputy probation officers are hereby created. The appointments of probation officers and deputy probation officers to serve hereunder in any county or city and county shall be made by the probation committee of said county or city and county from discreet citizens of good moral character. The appointments by each probation committee shall be made in writing, signed by a majority of the members of such committee, and filed with the county clerk of such county, and shall be subject to and shall take effect upon approval by the judge of the superior court appointing such committee, or by a majority of the judges thereof if there be more than one; such approval to be by order entered in the minutes of said court. The term of office of probation officers and of deputy probation officers shall be two years from the date of the said approval of their several appointments. Such probation officers

and deputy probation officers may at any time be removed by the judge approving their appointment in his discretion.

**Duty of deputy.**

Subd. 8. Any of the duties of the probation officer may be performed by a deputy probation officer and shall be performed by him whenever detailed to perform the same by the probation officer; and it shall be the duty of the probation officer to see that the deputy probation officer performs his duties.

**Present officers to serve.**

Subd. 9. It is the intention of this act that the same probation committees, the same probation officers and deputy probation officers shall be appointed and serve under this act as under the act known as the juvenile court act, and entitled "An act defining and providing for the control, protection and treatment of dependent and delinquent children; prescribing the powers and duties of courts with respect thereto; providing for the appointment of probation officers, and prescribing their powers and duties; providing for the separation of children from adults when confined in jails or other institutions; providing for the appointment of boards to investigate the qualifications of organizations receiving children under this act, and prescribing the duties of such boards; and providing when proceedings under this act shall be admissible in evidence," and approved February 26, 1903; or under any laws amending or superseding the same.

**Probation officers to inquire into antecedents of persons arrested.**

Subd. 10. Either at the time of the arrest for crime of any person over sixteen years of age, or at the time of the plea or verdict of guilty, the probation officer of the county of the jurisdiction of said crime shall, when so directed by the court, inquire into the antecedents, character, history, family environment and offense of such person, and must report the same to the court and file his report in writing in the records of said court. His report shall contain his recommendation for or against the release of such person on probation. If any such person shall be released on probation and committed to the care of the probation officer, such officer must keep a complete and accurate record in suitable books of the history of the case in court and of the name of the probation officer, and his acts in connection with said case; also the age; sex; nativity; residence; education; habits of temperance; whether married or single; and the conduct, employment and occupation and parents' occupation and condition of such person so committed to his care during the term of such probation, and the result of such probation, which record shall be and constitute a part of the records of the court and shall at all times be open to the inspection of the court or any person appointed by the court for that purpose, as well as of all magistrates and the chief of police or other head of the police, unless otherwise ordered by the court. The said books of record shall be furnished by the county clerk of said county, and shall be paid for out of the county treasury.

**Terms and conditions of probation.**

Subd. 11. The probation officer shall furnish to each person released on probation and committed to his care, a written statement of the terms and conditions of his probation, and shall report to the court, judge, or justice appointing him, any violation or breach of the terms and conditions imposed by such court on the person placed in his care.

**Probation officers to serve in all courts.**

Subd. 12. The probation officers and deputy probation officers appointed under this section shall serve as such probation officers in all courts having original jurisdiction of criminal actions in this state.

**Powers of peace officers.**

Subd. 13. Such probation officer and each deputy probation officer shall have, as to the person so committed to the care of such probation officer or deputy probation officer, the powers of a peace officer. [Amended, Statutes 1905, p. 780.]

## **JURORS.**

**Jury defined.**

§ 190. A jury is a body of persons temporarily selected from the citizens of a particular district and invested with power to present or indict a person for a public offense, or to try a question of fact. [Amended, Statutes 1917, p. 1282.]

**Different kinds of juries.**

§ 191. Juries are of three kinds:

1. Grand juries;
2. Trial juries;
3. Juries of inquest.

**Grand jury defined.**

§ 192. A grand jury is a body of persons, nineteen in number, returned in pursuance of law, from the citizens of a county, or a city and county, before a court of competent jurisdiction, and sworn to inquire of public offense committed or triable within the county or city and county. [Amended, Statutes 1917, p. 1282.]

**Trial jury defined.**

§ 193. A trial jury is a body of persons returned from the citizens of a particular district before a court or officer of competent jurisdiction, and sworn to try and determine by verdict, a question of fact. [Amended, Statutes 1917, p. 1283.]

**Number of trial jury.**

§ 194. A trial jury shall consist of twelve persons; *provided*, that in civil actions and cases of misdemeanor, it may consist of twelve or any number less than twelve, upon which the parties may agree in open court. [Amended, Statutes 1917, p. 1283.]



### **Jury of inquest defined.**

§ 195. A jury of inquest is a body of persons summoned from the citizens of a particular district before the sheriff, coroner, or other ministerial offices, to inquire of particular facts. [Amended, Statutes 1917, p. 1283.]

### **Persons competent to act as jurors.**

§ 198. A person is competent to act as juror if he be:

1. A citizen of the United States of the age of twenty-one years who shall have been a resident of the state and of the county or city and county for one year immediately before being selected and returned;

2. In possession of his natural faculties and of ordinary intelligence and not decrepit;

3. Possessed of sufficient knowledge of the English language. [Amended, Statutes 1915, p. 826.]

### **Persons not competent to serve as jurors.**

§ 199. A person is not competent to act as a juror:

1. Who does not possess the qualifications prescribed by the preceding section;

2. Who has been convicted of malfeasance in office or any felony or other high crime; or

3. Who has been discharged as a juror by any court of record in this state within a year, as provided in section two hundred of this code, or who has been drawn as a grand juror in any such court and served as such within a year and been discharged.

4. A person who is serving as a grand juror in any court of record in this state is not competent to act as a trial juror in any such court.

And a person who is serving as a trial juror in any court of this state is not competent to act as a grand juror in any such court. [Amended, Statutes 1909, p. 977.]

### **Persons exempt from jury duty.**

§ 200. A person is exempt from liability to act as a juror if he be:

1. A judicial, civil, or military officer of the United States, or of this state;

2. A person holding a county, city and county, city, town or township office;

3. An attorney at law, or the clerk, secretary or stenographer of an attorney at law;

4. A minister of the gospel, or a priest of any denomination following his profession;

5. A teacher in a university, college, academy, or school.

6. A practicing physician, or druggist, actually engaged in the business of dispensing medicines;

7. An officer, keeper or attendant of an almshouse, hospital, asylum, or other charitable institution;

8. Engaged in the performance of duty as officer or attendant of the state prison or of a county jail;

9. Employed on board of a vessel navigating the waters of this state;

10. An express agent, mail carrier, or a superintendent, employee, or operator of a telegraph or telephone company doing a general telegraph or telephone business in this state, or keeper of a public ferry or toll-gate;

11. An active member of the national guard of California, or an active member of a paid fire department of any city and county, city, town, or village in this state, or an exempt member of a duly authorized fire company;

12. A superintendent, engineer, fireman, brakeman, motorman, or conductor on a railroad; or,

13. A person drawn as a juror in any court of record in this state, upon a regular panel, who has served as such within a year or a person drawn or summoned as a juror in any such court who has been discharged as a juror within a year as hereinafter provided; *provided, however*, that in counties having less than five thousand population the exemption provided by this subdivision shall not apply. [Amended Statutes 1915, p. 1280.]

#### **Who may be excused.**

§ 201. A juror shall not be excused by a court for slight or trivial causes, or for hardship, or for inconvenience to said juror's business, but only when material injury or destruction to said juror's property or of property entrusted to said juror is threatened, or when said juror's health, or when the health or proper care of said juror's own family, or when the sickness or death of a member of said juror's family make it necessary for said juror to be excused. [Amended, Statutes 1917, p. 1283.]

#### **Affidavit of claim to exemption.**

§ 202. If a person, exempt from liability to act as a juror as provided in section two hundred, be summoned as a juror, he may make and transmit his affidavit to the clerk of the court for which he is summoned, stating his office, occupation, or employment; and such affidavit shall be delivered by the clerk to the judge of the court where the name of such person is called, and if sufficient in substance, shall be received as an excuse for nonattendance in person. The affidavit shall then be filed by the clerk. [Amended, Code Amdts. 1880, p. 46.]

#### **Jury lists, by whom and when to be made.**

§ 204. In the month of January in each year it shall be the duty of the superior court in each of the counties of this state to make an order designating the estimated number of grand jurors and also the number of trial jurors, that will, in the opinion of said court, be

required for the transaction of the business of the court, and the trial of causes therein, during the ensuing year; and immediately after said order designating the estimated number of grand jurors shall be made, the court shall select and list the grand jurors required by said order to serve as grand jurors in said superior court during the ensuing year, or until new lists of jurors shall be provided, and said selections and listings shall be made of men and women suitable and competent to serve as jurors, as set forth and required in sections two hundred five and two hundred six of this code, which list of persons so selected shall at once be placed in the possession of the county clerk; and immediately after said order designating the estimated number of trial jurors shall be made, the board of supervisors shall select, as provided in sections two hundred five and two hundred six of this code, a list of men and women to serve as trial jurors in the superior court of said county during the ensuing year, or until a new list of jurors shall be provided.

In counties and cities and counties having a population of one hundred thousand inhabitants or over, such selection shall be made by a majority of the judges of the superior court. [Amended, Statutes 1917, p. 1283.]

#### **Selection and listing of jurors.**

§ 205. The selections and listings shall be made of persons suitable and competent to serve as jurors, and in making such selections they shall take the names of such only as are not exempt from serving, who are in the possession of their natural faculties, and not infirm or decrepit, of fair character and approved integrity, and of sound judgment. [Amended, Statutes 1915, p. 826.]

#### **Lists to contain how many names.**

§ 206. The lists of jurors, to be made as provided in the preceding section, shall contain the number of persons which shall have been designated by the court in its order. The names for such lists shall be selected from the different wards or townships of the respective counties in proportion to the number of inhabitants therein, as nearly as the same can be estimated by the persons making said lists; and said lists shall be kept separate and distinct one from the other. [Amended, Statutes 1881, p. 70.]

#### **Certified list to be filed with clerk of superior court.**

§ 208. A certified list of the persons selected to serve as trial jurors shall at once be placed in the possession of and filed with the clerk of the superior court. [Amended, Statutes 1893, p. 298.]

#### **Duty of clerk. Jury boxes.**

§ 209. On receiving such lists the county clerk shall file the same in his office, and write down the names contained thereon on separate pieces of paper, of the same size and appearance, and fold each

piece so as to conceal the name thereon. He shall deposit the pieces of paper having on them the names of the persons selected to serve as grand jurors in a box to be called the "grand-jury box," and those having on them the names of the persons selected to serve as trial jurors in a box to be called the "trial-jury box." [Amended, Statutes 1881, p. 70.]

**Regular jurors to serve one year.**

§ 210. The persons whose names are so returned shall be known as regular jurors, and shall serve for one year and until other persons are selected and returned. [Amended, Code Amdts. 1880, p. 47.]

**Jurors to be drawn from boxes.**

§ 211. The names of persons drawn for grand jurors shall be drawn from the "grand-jury box," and the names of persons for trial jurors shall be drawn from the "trial-jury box;" and if, at the end of the year, there shall be the names of persons in either of the said jury-boxes who may not have been drawn during the year to serve, and have not served as jurors, the names of such persons may be placed on the list of jurors drawn for the succeeding year. [Amended, Statutes 1881, p. 70.]

**Order of judge or judges for drawing of jury.**

§ 214. Whenever the business of the superior court shall require the attendance of a trial jury for the trial of criminal cases, or where a trial jury shall have been demanded in any cause or causes at issue in said court, and no jury is in attendance, the court may make an order directing a trial jury to be drawn, and summoned to attend before said court. Such order shall specify the number of jurors to be drawn, and the time at which the jurors are required to attend. And the court may direct that such causes, either criminal or civil, in which a jury may be required, or in which a jury may have been demanded, be continued, and fixed for trial when a jury shall be in attendance. [Amended, Code Amdts. 1880, p. 47.]

**When clerk shall draw.**

§ 215. Immediately upon the order mentioned in the preceding section being made, the clerk shall, in the presence of the court, proceed to draw the jurors from the "trial-jury box." [Amended, Statutes 1881, p. 71.]

**Drawing, how conducted.**

§ 219. The clerk must conduct said drawing as follows:

1. He must shake the box containing the names of the trial jurors so as to mix the slips of paper upon which such names are written as well as possible; he must then draw from said box as many slips of paper as are ordered by the court.

2. A minute of the drawing shall be entered in the minutes of the court, which must show the name on each slip of paper so drawn from said jury-box.

3. If the name of any person is drawn from said box who is deceased or insane, or who may have permanently removed from the county, or who is exempt from jury service, and the fact shall be made to appear to the satisfaction of the court, the name of such person shall be omitted from the list, and the slip of paper having such name on it shall be destroyed and another juror drawn in his place, and the fact shall be entered upon the minutes of the court. The same proceeding shall be had as often as may be necessary until the whole number of jurors required be drawn. After the drawing shall be completed, the clerk shall make a copy of the list of names of the persons so drawn, and certify the same. In his certificate he shall state the date of the order, and of the drawing, and the number of the jurors drawn, and the time when, and the place where such jurors are required to appear. Such certificate and list shall be delivered to the sheriff for service. [Amended, Statutes 1881, p. 71.]

#### **Preservation of ballots drawn.**

§ 220. After a drawing of persons to serve as jurors, the clerk shall preserve the ballots drawn, and at the close of the session or sessions for which the drawing was had, he shall replace in the proper box from which they were taken all ballots which have on them the names of persons who did not serve as jurors for the session or sessions aforesaid, and who were not exempt or incompetent. [Amended, Code Amdts. 1880, p. 48.]

#### **Summons to jurors.**

§ 225. The sheriff, as soon as he receives the list or lists of jurors drawn, shall summon the persons named therein to attend the court at the opening of the regular session thereof, or at such session or time as the court may order, by giving personal notice to that effect to each of them, or by leaving a written notice to that effect at his place of residence, with some person of proper age, or by mailing such notice by registered mail, and shall return the list to the court at the opening of the regular session thereof, or at such session or time as the jurors may be ordered to attend, specifying the names of those who were summoned, and the manner in which each person was notified. [Amended, Statutes 1915, p. 931.]

#### **Of drawing and summoning jurors to attend forthwith.**

§ 226. Whenever jurors are not drawn or summoned to attend any court of record or session thereof, or a sufficient number of jurors fail to appear, such court may order a sufficient number to be forthwith drawn and summoned to attend the court, or it may, by an order entered in its minutes, direct the sheriff, or an elisor chosen by the

court forthwith to summon so many good and lawful persons of the county, or city and county, to serve as jurors, as may be required, and in either case such jurors must be summoned in the manner provided in the preceding section. [Amended, Statutes 1917, p. 1284.]

**Of summoning jurors to complete a panel.**

§ 227. When there are not competent jurors enough present to form a panel the court may direct the sheriff, or an elisor chosen by the court, to summon a sufficient number of persons having the qualifications of jurors to complete the panel from the body of the county, or city and county, and not from the bystanders; and the sheriff or elisor shall summon the number so ordered accordingly and return the names to the court. [Amended, Code Amdts. 1880, p. 48.]

**Jurors for justices' or police courts.**

§ 230. When jurors are required in any of the justices' courts, or in any police or other inferior court, they shall, upon order of the justice, or any one of the justices where there is more than one, or of the judge thereof, be summoned by the sheriff, constable, marshal, or policeman of the jurisdiction. [Amended, Statutes 1907, p. 680.]

**How to be summoned.**

§ 231. Such jurors must be summoned from the persons competent to serve as jurors, residents of the city and county, township, city, or town in which such court has jurisdiction, by notifying them orally that they are summoned, and of the time and place at which their attendance is required. [Amended, Code Amdts. 1880, p. 49.]

**Officer's return.**

§ 232. The officer summoning such jurors shall, at the time fixed in the order for their appearance, return it to the court with a list of the persons summoned indorsed thereon. [Amended, Code Amdts. 1880, p. 49.]

**Summoning juries of inquest.**

§ 235. Juries of inquest shall be summoned by the officer before whom the proceedings in which they are to sit are to be had, or by any sheriff, constable or policeman, from the persons competent to serve as jurors, resident of the county, or city and county, by notifying them orally that they are so summoned, and of the time and place at which their attendance is required. [Amended, Code Amdts. 1880, p. 49.]

**Attachment and fine.**

§ 238. Any juror summoned, who wilfully and without reasonable excuse fails to attend, may be attached and compelled to attend; and

the court may also impose a fine not exceeding fifty dollars, upon which execution may issue. If the juror was not personally served, the fine must not be imposed until upon an order to show cause an opportunity has been offered the juror to be heard. [Amended, Code Amdts. 1880, p. 49.]

**Grand juries, when and by whom impaneled.**

§ 241. Every superior court, whenever in the opinion of the court the public interest requires it, must make and file with the county clerk, an order directing a jury to be drawn, and designate the number, which, in case of a grand jury, shall not be less than twenty-five nor more than thirty. In all counties there shall be at least one grand jury drawn and impaneled in each year. Such order must designate the time at which the drawing will take place. The names of such jurors shall be drawn, the list of names certified and summoned, as provided for drawing and summoning trial jurors; and the names of any persons drawn, who may not be impaneled upon the grand jury, may be again placed in the grand-jury box. ]Amended, Statutes 1905, p. 139.]

**Grand jury, how constituted.**

§ 242. When, of the persons summoned as grand jurors and not excused, nineteen are present, they shall constitute the grand jury. If more than nineteen of such persons are present, the clerk shall write their names on separate ballots, which he must fold so that the names cannot be seen, place them in a box, and draw out nineteen of them, and the persons whose names are on the ballots so drawn shall constitute the grand jury. If less than nineteen of such persons are present, the panel may be filled as provided in section two hundred and twenty-six of this code. And whenever, of the persons summoned to complete a grand jury, more shall attend than are required, the requisite number shall be obtained by writing the names of those summoned and not excused on ballots, depositing them in a box, and drawing as above provided. [Amended, Code Amdts. 1880, p. 50.]

**Manner of impaneling prescribed in penal code.**

§ 243. Thereafter such proceedings shall be had in impaneling the grand jury as are prescribed in part two of the Penal Code.

**Impaneling trial juries.**

§ 246. At the opening of court on the day trial jurors have been summoned to appear, the clerk shall call the names of those summoned, and the court may then hear the excuses of jurors summoned; *provided*, that it may be left to the discretion of the court to accept an affidavit of excuse under section two hundred two of this code without a personal appearance in court of the juror summoned. The clerk shall then write the names of the jurors present and not excused upon separate slips or ballots of paper, and fold such slips so that the names are concealed, and there,

in the presence of the court deposit the slips or ballots in a box, which must be kept sealed or locked until ordered by the court to be opened. [Amended, Statutes 1917, p. 1284.]

**Manner of impaneling trial juries.**

§ 247. Whenever thereafter a civil action is called by the court for trial, and a jury is required, such proceedings shall be had in impaneling the trial jury as are prescribed in part two of this code. If the action be a criminal one, the jury shall be impaneled as prescribed in the Penal Code. [Amended, Code Amdts. 1880, p. 51.]

**Juries in justices' and police courts.**

§ 250. At the time appointed for a jury trial in justices', police, or other inferior courts, the list of jurors summoned must be called, and the names of those attending and not excused must be written upon separate slips of paper, folded so as to conceal the names, and placed in a box, from which the trial jury must be drawn. [Amended, Code Amdts. 1880, p. 51.]

**Manner of impaneling.**

§ 251. Thereafter, if the action is a criminal one, the jury must be impaneled as provided in the Penal Code; if a civil one, as provided in part two of this code.

**Impaneling juries of inquest.**

§ 254. The manner of impaneling juries of inquest is prescribed in the provisions of the different codes relating to such inquests. [Amended, Code Amdts. 1880, p. 51.]

**Who may be admitted as attorneys.**

§ 275. Any citizen or person resident of this state, who has bona fide declared his or her intention to become a citizen in the manner required by law, of the age of twenty-one years, of good moral character, and who possesses the necessary qualifications of learning and ability, is entitled to admission as attorney and counselor in all courts of this state. All persons are attorneys of the supreme court who were on the first day of January, eighteen hundred and eighty, entitled to practice in the court superseded thereby. [Amended, Code Amdts. 1880, p. 55.]

**Certain disabilities excluded from time to commence actions.**

§ 328 If a person entitled to commence an action [1] for the recovery of real property, or [2] for the recovery of the possession thereof, or [3] to make any entry or defense founded on the title to real property, or [4] to rents or services out of the same, is, at the time such title first descends or accrues, either:

1. Under the age of majority;
2. Insane;



3. Imprisoned on a criminal charge, or in execution upon conviction of a criminal offense, for a term less than life;

The time, not exceeding twenty years, during which such disability continues is not deemed any portion of the time in this chapter limited for the commencement of such action, or the making of such entry or defense, but such action may be commenced, or entry or defense made, within the period of five years after such disability shall cease, or after the death of the person entitled, who shall die under such disability; but such action shall not be commenced, or entry or defense made, after that period. [Amended, Statutes 1903, p. 177.]

#### **Exception as to persons under disabilities.**

§ 352. If a person entitled to bring an action, mentioned in chapter three of this title, be, at the time the cause of action accrued, either:

1. Within the age of majority; or,
2. Insane; or,
3. Imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than for life; or,
4. A married woman, and her husband be a necessary party with her in commencing such action;

The time of such disability is not a part of the time limited for the commencement of the action.

#### **Married woman as party to action.**

§ 370. When a married woman is a party, her husband must be joined with her, except:

1. When the action concerns her separate property, including action for injury to her person, libel, slander, false imprisonment, or malicious prosecution, or her right or claim to the homestead property, she may sue alone.
2. When the action is between herself and her husband, she may sue or be sued alone.
3. When she is living separate and apart from her husband by reason of his desertion of her, or by agreement, in writing, entered into between them, she may sue or be sued alone. [Amended, Statutes 1913, p. 217.]

#### **Wife may defend.**

§ 371. If a husband and wife be sued together, the wife may defend for her own right, and if the husband neglect to defend, she may defend for his right also.

#### **Appearance of infant, etc., by guardian.**

§ 372. When an infant, or an insane or incompetent person is a party, he must appear either by his general guardian or by a **guardian ad litem** appointed by the court in which the action is pending, in each case. A **guardian ad litem** may be appointed in any case, when it is deemed by the court in which the action or proceeding is prosecuted, or by a judge thereof, expedient to represent the infant, insane, or incompetent person in the action or proceeding, notwithstanding he may have a general

guardian and may have appeared by him. The general guardian or guardian *ad litem* so appearing for any infant, or insane or incompetent person in any suit shall have power to compromise the same and to agree to the judgment to be entered therein for or against his ward, subject to the approval of the court in which such suit is pending. [Amended, Statutes 1913, p. 350.]

#### **Guardian, how appointed.**

§ 373. When a guardian *ad litem* is appointed by the court, he must be appointed as follows:

1. When the infant is plaintiff, upon the application of the infant, if he be of the age of fourteen years, or if under that age, upon the application of a relative or friend of the infant.

2. When the infant is defendant, upon the application of the infant, if he be of the age of fourteen years, and apply within ten days after the service of the summons, or if under that age, or if he neglect so to apply, then upon the application of a relative or friend of the infant, or of any other party to the action.

3. When an insane or incompetent person is a party to an action or proceeding, upon the application of a relative or friend of such insane or incompetent person, or of any other party to the action or proceeding. [Amended, Code Amdts. 1880, p. 63.]

#### **Unmarried female may sue for her own seduction.**

§ 374. An unmarried female may prosecute, as plaintiff, an action for her own seduction, and may recover therein such damages, pecuniary or exemplary, as are assessed in her favor.

#### **Father, etc., may sue for seduction of daughter, etc.**

§ 375. A father, or in case of his death or desertion of his family, the mother, may prosecute as plaintiff for the seduction of the daughter, and the guardian for the seduction of the ward, though the daughter or ward be not living with or in the service of the plaintiff at the time of the seduction or afterward, and there be no loss of service.

#### **Father, etc., may sue for injury or death of child.**

§ 376. A father, or in case of his death or desertion of his family, the mother, may maintain an action for the injury or death of a minor child, and a guardian for the injury or death of his ward, when such injury or death is caused by the wrongful act or neglect of another. Such action may be maintained against the person causing the injury, or death, or if such person be employed by another person who is responsible for his conduct, also against such other person. [Amended, Code Amdts. 1873-74, p. 294.]

**Action, when not to abate by death, etc.**

§ 385. An action or proceeding does not abate by the death, or any disability of a party, or by the transfer of any interest therein, if the cause of action survive or continue. In case of the death or any disability of a party, the court, on motion, may allow the action or proceeding to be continued by or against his representative or successor in interest. In case of any other transfer of interest, the action or proceeding may be continued in the name of the original party, or the court may allow the person to whom the transfer is made to be substituted in the action or proceeding. [Amended, Code Amdts. 1873-74, p. 295.]

**Summons, how served.**

§ 411. The summons must be served by delivering a copy thereof as follows:

1. If the suit is against a corporation formed under the laws of this state: to the president or other head of the corporation, vice president, secretary, assistant secretary, cashier or managing agent thereof.

2. If suit is against a foreign corporation, or a non-resident joint stock company or association, doing business and having a managing or business agent, cashier or secretary within this state: to such agent, cashier or secretary.

3. If against a minor, under the age of fourteen years, residing within this state: to such minor, personally, and also to his father, mother, or guardian: or if there be none within this state, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed.

4. If against a person residing within this state who has been judicially declared to be of unsound mind, or incapable of conducting his own affairs, and for whom a guardian has been appointed: to such person, and also his guardian.

5. If against a county, city or town: to the president of the board of supervisors, president of the council or trustees, or other head of the legislative department thereof.

6. In all other cases to the defendant personally. [Amended, Statutes 1915, p. 943.]

**Statement of facts in divorce complaint.**

§ 426a. In an action for divorce the complaint must set forth, for the statistics required to be collected by the state bureau of vital statistics, among other matters as near as can be ascertained the following facts: [1] The state or country in which the parties were married. [2] The date of marriage. [3] The date of separation. [4] The number of years from marriage to separation. [5] The number of children of the marriage, if any, and if none, a statement of that fact. [6] The ages of the minor children. [Enacted, Statutes 1913, p. 232.]

### **Security upon injunctions.**

§ 529. On granting an injunction, the court or judge must require, except when it is granted on the application of the people of the state, a county, or a municipal corporation, or a wife against her husband, a written undertaking on the part of the applicant, with sufficient sureties, to the effect that he will pay to the party enjoined such damages, not exceeding an amount to be specified, as such party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled thereto. Within five days after the service of the injunction, the person enjoined may except to the sufficiency of the sureties, and unless within five days thereafter, upon notice of not less than two days to the person enjoined, such sureties, or others in their place, justify before a judge of the court or county clerk at a time and place designated in such notice, the order granting the injunction must be dissolved. [Amended, Statutes 1907, p. 342.]

### **Referees may take securities for purchase money.**

§ 777. The referees may take separate mortgages and other securities for the whole, or convenient portions of the purchase money, of such parts of the property as are directed by the court to be sold on credit, [1] for the shares of any known owner of full age, in the name of such owner; and [2] for the shares of an infant, in the name of the guardian of such infant; and [3] for other shares, in the name of the clerk of the county and his successors in office.

### **Who may not be purchasers.**

§ 783. Neither of the referees, nor any person for the benefit of either of them, can be interested in any purchase; nor can a guardian of an infant party be interested in the purchase of any real property, being the subject of the action, except for the benefit of the infant. All sales contrary to the provisions of this section are void.

### **When unequal partition is ordered.**

§ 792. When it appears that partition can not be made equal between the parties, according to their respective rights, without prejudice to the rights and interests of some of them, and a partition be ordered, the court may adjudge compensation to be made by one party to another, on account of the inequality; but such compensation shall not be required [1] to be made to others by owners unknown, [2] nor by an infant, unless it appears that such infant has personal property sufficient for that purpose, and that his interest will be promoted thereby. And in all cases the court has power to make compensatory adjustment between the respective parties, according to the ordinary principles of equity.

**Share of infant may be paid to guardian.**

§ 793. When the share of an infant is sold, the proceeds of the sale may be paid by the referee making the sale to his general guardian, or the special guardian appointed for him in the action, upon giving the security required by law or directed by order of the court.

**When guardian necessary, how appointed.**

§ 843. When an infant, insane, or incompetent person is a party, he must appear either by his general guardian if he have one, or by a guardian ad litem appointed by the justice. When a guardian ad litem is appointed by the justice, he must be appointed as follows:

1. If the infant, insane, or incompetent person, be plaintiff, the appointment must be made before the summons is issued, upon the application of the infant, if he be of the age of fourteen years; if under that age, or if insane or incompetent, upon the application of a relative or friend.

2. If the infant, insane, or incompetent person, be defendant, the appointment must be made at the time the summons is returned, or before the answer, upon the application of the infant, if he be of the age of fourteen years and apply at or before the summons is returned; if he be under the age of fourteen, or be insane or incompetent, or neglect so to apply, then upon the application of a relative or friend, or any other party to the action, or by the justice, on his own motion. [Amended, Code Amdts. 1880, p. 18.]

**Appeals from superior court.**

§ 963. An appeal may be taken from a superior court in the following cases:

\* \* \* \* \*

2. \* \* \* from such interlocutory judgment in actions for partition as determines the rights and interests of the respective parties and directs partition to be made, and interlocutory decrees of divorce.

3. From a judgment or order granting or refusing to grant, revoking or refusing to revoke, letters testamentary, or of administration, or of guardianship; or admitting or refusing to admit a will to probate, or against or in favor of the validity of a will, or revoking or refusing to revoke the probate thereof; or against or in favor of setting apart property, or making an allowance for a widow or child; or against or in favor of directing the partition, sale or conveyance of real property, or settling an account of an executor, administrator or guardian, or refusing, allowing or directing the distribution or partition of an estate, or any part thereof, or the payment of a debt, claim, or legacy, or distributive share; or confirming or refusing to confirm a report of an appraiser or appraisers setting apart a homestead; from an order, judgment or decree fixing inheritance tax or determining that no inheritance tax is due. [Amended, Statutes 1917, p. 624.]

### **Parties defendant.**

§ 1164. No person other than the tenant of the premises and subtenant, if there be one, in the actual occupation of the premises when the complaint is filed, need be made parties defendant in the proceeding, nor shall any proceeding abate, nor the plaintiff be nonsuited for the nonjoinder of any person who might have been made party defendant, but when it appears that any of the parties served with process, or appearing in the proceeding, are guilty of the offense charged, judgment must be rendered against him. In case a defendant has become a subtenant of the premises in controversy, after the service of the notice provided for by part two of section eleven hundred and sixty-one of this code, upon the tenant of the premises, the fact that such notice was not served on each subtenant shall constitute no defense to the action. In case a married woman be a tenant, or a subtenant, her coverture shall constitute no defense; but in case her husband be not joined, or unless she be doing business as a sole trader, an execution issued upon a personal judgment against her can only be enforced against property on the premises at the commencement of the action. All persons who enter the premises under the tenant, after the commencement of the suit, shall be bound by the judgment, the same as if he or they had been made party to the action. [Amended, Statutes 1885, p. 129.]

### **Proceedings after judgment by persons claiming escheated estates.**

§ 1272. Within five years after judgment in any proceeding had under this title, a person not a party or privy to such proceeding may file a petition in the superior court of the county of Sacramento, showing his claim or right to the property, or the proceeds thereof. Said petition shall be verified, and, among other things must state:

The full name, and the place and date of birth of the decedent whose estate, or any part thereof, is claimed.

The full name of such decedent's father and the maiden name of his mother, the places and dates of their respective births, the place and date of their marriage, the full names of all children the issue of such marriage, with the date of birth of each, and the place and date of death of all children of such marriage who have died unmarried and without issue.

Whether or not such decedent was ever married, and if so, where, when and to whom.

How, when and where such marriage, if any, was dissolved.

Whether or not said decedent was ever remarried, and, if so, where, when and to whom.

The full names, and the dates and places of birth of all lineal descendants, if any, of said decedent; the dates and places of death of any thereof who died prior to the filing of such petition; and the places of residence of all who are then surviving, with the degree of relationship of each of such survivors to said decedent.

Whether any of the brothers or sisters of such decedent ever married, and, if so, where, when and whom.

The full names, and the places and dates of birth of all children the issue of the marriage of any such brother or sister of decedent, and the date and place of death of all deceased nephews and nieces of said decedent.

Whether or not said decedent, if of foreign birth, ever became a naturalized citizen of the United States, and if so, when, where, and by what court citizenship was conferred.

The post office names of the cities, towns or other places, each in its appropriate connection, wherein are preserved the records of the births, marriages and deaths hereinbefore enumerated, and, if known, the title of the public official or other person having custody of such records.

If for any reason, the petitioner is unable to set forth any of the matters or things hereinabove required, he shall clearly state such reason in his petition.

A copy of such petition must be served on the attorney general at least twenty days before the hearing of the petition, who must answer the same; and the court thereupon must try the issue as issues are tried in civil actions, and if it is determined that such person is entitled to the property, or the proceeds thereof, it must order the property, if it has not been sold, to be delivered to him, or if it has been sold and the proceeds paid into the state treasury, then it must order the controller to draw his warrant on the treasury for the payment of the same, but without interest or cost to the state, a copy of which order, under the seal of the court, shall be a sufficient voucher for drawing such warrant. All persons who fail to appear and file their petitions within the time limited are forever barred; saving, however, to infants, and persons of unsound mind, the right to appear and file their petitions at any time within the time limited, or within one year after their respective disabilities cease. [Amended, Statutes 1915, p. 934.]

#### **Application for change of name.**

§ 1276. All applications for change of names must be made to the superior court of the county where the person whose name is proposed to be changed resides, by petition, signed by such person; and if such person is under twenty-one years of age, if a male, and under the age of eighteen years of age, if a female, by one of the parents, if living, or if both be dead, then by the guardian; and if there be no guardian, then by some near relative or friend. The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and the reason for such change of name, and must, if the father of such person be not living, name, as far as known to the petitioner, the near relatives of such person, and their place of residence. Any religious, benevolent, literary, scientific, or other corporation, or any corporation bearing or having for its

name, or using or being known by the name of any benevolent or charitable order or society, may, by petition, apply to the superior court of the county in which its articles of incorporation were originally filed, or in which the property of such incorporation is situated, for change of its corporate name. Such petition must be signed by a majority of the directors or trustees of the corporation, and must specify the date of the formation of the corporation, its present name, the name proposed, and the reason for such change of name. Upon filing such petition, on behalf of such corporation, the same proceedings shall be had as upon applications for changes of names of natural persons, and no banking corporation hereafter organized shall adopt or use the name of any friendly association. [Amended, Statutes 1885, p. 112.]

**Probate, when conclusive.**

§ 1333. If no person, within one year after the probate of a will, contest the same or the validity thereof, the probate of the will is conclusive; saving to infants and persons of unsound mind, a like period of one year after their respective disabilities are removed. [Amended, Code Amdts. 1873-74, p. 358.]

**EXECUTORS AND ADMINISTRATORS.**

**Who are incompetent as executors.**

§ 1350. No person is competent to serve as executor who, at the time the will is admitted to probate, is:

1. Under the age of majority;
2. Convicted of an infamous crime;
3. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity. [Amended, Statutes 1907, p. 313.]

**Married woman may be executrix.**

§ 1352. A married woman may be appointed an executrix. The authority of an executrix, who was unmarried when appointed, is not extinguished nor affected by her marriage. [Amended, Statutes 1891, p. 136.]

**Letters of administration durante minore ætate.**

§ 1354. Where a person absent from the state, or a minor is named executor—if there is another executor who accepts the trust and qualifies—the latter may have letters testamentary and administer the estate until the return of the absentee or the majority of the minor, who may then be admitted as joint executor. If there is no other executor, letters of administration, with the will annexed must be granted; but the court may, in its discretion, revoke them on the return of the absent executor or the arrival of the minor at the age of majority.



### **Order of persons entitled to administer.**

§ 1365. Administration of the estate of a person dying intestate must be granted to some one or more of the persons hereinafter mentioned, the relatives of the deceased being entitled to administer only when they are entitled to succeed to his personal estate or some portion thereof; and they are, respectively, entitled thereto in the following order:

1. The surviving husband or wife, or some competent person whom he or she may request to have appointed.
2. The children.
3. The father and mother.
4. The brothers.
5. The sisters.
6. The grandchildren.
7. The next of kin entitled to share in the distribution of the estate.
8. The public administrator.
9. The creditors.
10. Any person legally competent.

If the decedent was a member of a partnership at the time of his decease, the surviving partner must in no case be appointed administrator of his estate. This section shall apply to the relatives of the previously deceased spouse of decedent when entitled to succeed to some portion of the estate under subdivision eight of section thirteen hundred and eighty-six of the Civil Code. [Amended, Statutes 1907, p. 566.]

### **Relatives of whole blood preferred.**

§ 1366. Of several persons claiming and equally entitled to administer, relatives of the whole blood must be preferred to those of the half blood. [Amended, Statutes 1913, p. 567.]

### **When minor or incompetent entitled, who appointed administrator.**

§ 1368. If any person entitled to administration is a minor or an incompetent person, letters must be granted to his or her guardian, or any other person entitled to letters of administration, in the discretion of the court. [Amended, Statutes 1893, p. 52.]

### **Who are incompetent to act as administrators.**

§ 1369. No person is competent or entitled to serve as administrator or administratrix who is:

1. Under the age of majority.
2. Not a bona fide resident of the state.
3. Convicted of an infamous crime.
4. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity. [Amended, Code Amdts. 1877-78, p. 112.]

**Married woman may be administratrix.**

§ 1370. A married woman may be appointed administratrix. When an unmarried woman appointed administratrix marries, her authority is not thereby extinguished. [Amended, Statutes 1891, p. 11.]

**Surviving heirs may collect money in bank.**

§ 1454. The surviving husband or wife or the guardian of the estate of any insane or incompetent husband or wife, of any deceased person, or if no husband or wife is living, then the children, or the guardian of the estates of any minor or insane or incompetent children of said deceased, or, if no children are living, then the father or mother or guardian of the estate of any insane or incompetent father or mother of such decedent, and if neither the father nor mother is living, then the brothers and sisters or the guardian of the estates of any minor or insane or incompetent brothers and sisters of such decedent, may, without procuring letters of administration, collect of any bank any sum which said deceased may have left on deposit in such bank at the time of his or her death; *provided*, such deposits shall not exceed the sum of one thousand dollars. Any bank, upon receiving an affidavit stating that said depositor is dead, and that affiant is the surviving husband or wife or the guardian of the estate of an insane or incompetent surviving husband or wife, as the case may be, of said decedent, or stating that decedent left no husband or wife, and that affiant is the child, or that affiants are the children, or the guardians of the estates of the minor, insane or incompetent children, as the case may be, of said decedent, or stating that decedent left neither husband, wife nor children, and that affiant is the father or mother, or the guardian of the estate of the insane or incompetent father or mother, as the case may be, of said decedent, or stating that the decedent left neither husband, wife, children, father nor mother, and that affiants are the brothers and sisters, or the guardians of the estates of the minor, insane or incompetent brothers and sisters, as the case may be, of said decedent, and that the whole amount that said decedent left on deposit in any and all banks of deposit in this state, does not exceed the sum of one thousand dollars, may pay to said affiant or affiants any deposit of said decedent, if the same does not exceed the sum of one thousand dollars, and the receipt of such affiant, or affiants, is sufficient acquittance therefor. [Amended Statutes 1915, p. 532.]

**Collection of balance in teachers' retirement salary fund.**

§ 1455. The surviving husband or wife, or the guardian of the estate of any insane or incompetent husband or wife, of any deceased person who had been the recipient of an annuity from the public school teachers' retirement salary fund, or if no husband or wife is living, then the children or the guardian of the estates of any minor or insane or incompetent children of said deceased, or, if no children are living, then the father or mother or the guardian of the estate of

any insane or incompetent father or mother of such decedent, and if neither the father nor mother is living, then the brothers and sisters or the guardian of the estates of any minor or insane or incompetent brothers and sisters of such decedent, may, without procuring letters of administration, collect from the public school teachers' retirement salary fund, in the state treasury, any balance of retirement salary accrued to the credit of said deceased annuitant remaining unpaid at the time of death. The public school teachers' retirement salary fund board, upon receiving an affidavit stating that said annuitant is dead, and that affiant is the surviving husband or wife or the guardian of the estate of an insane or incompetent husband or wife, as the case may be, of said decedent, or stating that decedent left no husband or wife, and that affiant is the child, or that affiants are the children, or the guardians of the estates of the minor, insane or incompetent children, as the case may be, or said decedent, or stating that decedent left neither husband, wife nor children, and that affiant is the father or mother, or the guardian of the estate of the insane or incompetent father or mother, as the case may be, of said decedent, or stating that the decedent left neither husband, wife, children, father nor mother, and that the affiants are the brothers and sisters, or the guardians of the estates of the minor, insane or incompetent brothers and sisters, as the case may be, of said decedent, shall, at the next quarterly meeting of said board, when claims for retirement salaries are certified, include and certify a claim in favor of said affiant or affiants for the balance due said decedent, and the controller shall draw his warrant in favor of the affiant or affiants in the same manner as warrants are drawn for the payment of retirement salaries, and the indorsement of such affiant or affiants upon such warrant is sufficient acquittance therefor. [Enacted, Statutes, 1917, p 78.]

### **SUPPORT OF FAMILY.**

**Widow and minor children may remain in decedent's house, etc.**

§ 1464. When a person dies leaving a widow or minor children, the widow or children, until letters are granted and the inventory is returned, are entitled to remain in possession of the homestead, of all the wearing apparel of the family, and of all the household furniture of the decedent, and are also entitled to a reasonable provision for their support, to be allowed by the superior court, or a judge thereof. [Amended, Code Amdts. 1880, p. 87.]

**All property exempt from execution to be set apart for use of family.**

§ 1465. Upon the return of the inventory, or at any subsequent time during the administration, the court may on petition therefor, set apart for the use of the surviving husband or wife, or, in case of his or her death, to the minor children of the decedent, all the property exempt from execution, including the homestead selected, designated, and recorded; provided, such homestead was selected

from the common property, or from the separate property, of the persons selecting or joining in the selection of the same. If none has been selected, designated, and recorded, or in case the homestead was selected by the survivor out of the separate property of the decedent, the decedent not having joined therein, the court must select, designate and set apart, and cause to be recorded, a homestead for the use of the surviving husband or wife and the minor children; or if there be no surviving husband or wife, then for the use of the minor children, in the manner provided in article two of this chapter, out of the common property, or if there be no common property, then out of the real estate belonging to the decedent. [Amended, Statutes 1909, p. 606.]

**Petition to set aside exempt property.**

§ 1465a. When the petition mentioned in the preceding section is filed the clerk of the court must set the petition for hearing by the court and give notice thereof by causing notices to be posted in at least three public places in the county, one of which must be at the place where the court is held, containing the name of the decedent, the name of the petitioner, the nature of the application, and the time at which the same will be heard. Such notice must be given at least ten days before the hearing, and a copy thereof must be mailed at least ten days before the day appointed for the hearing to the executor or administrator, if he be not the petitioner, and to any person named as co-executor or co-administrator not petitioning, and upon the attorney of any person who has appeared or given notice of appearance (by an attorney) in the estate as heir, legatee, devisee, next of kin, or creditor, or as otherwise interested, addressed to them at their places of residence, or office, if known, and if not known, then to the county seat of the county where the proceedings are pending. Proof of such posting and mailing must be made at the hearing. [Amended, Statutes 1915, p. 695.]

**May make extra allowance.**

§ 1466. If the property set apart is insufficient for the support of the widow and children, or either, the court or a judge thereof must take such reasonable allowance out of the estate as shall be necessary for the maintenance of the family, according to their circumstances, during the progress of the settlement of the estate, which, in case of an insolvent estate, must not be longer than one year after granting letters testamentary or of administration. [Amended, Statutes 1907, p. 933.]

**Payment of allowance.**

§ 1467. Any allowance made by the court or judge, in accordance with the provisions of this article, must be paid in preference to all other charges, except funeral charges and expenses of administration; and any such allowance, whenever made, may, in the discretion of the court or judge, take effect from the death of the decedent.

**Property set apart, how apportioned between widow and children.**

§ 1468. When property, other than the homestead selected and recorded during the lifetime, of the decedent, is set apart to the use of the family in accordance with the provisions of this chapter, such property, if the decedent left a surviving spouse and no minor child, is the property of such spouse. If the decedent left also a minor child or children, the one half of such property belongs to the surviving spouse, and the remainder to the child, or in equal shares to the children, if there are more than one. If there is no surviving spouse, the whole belongs to the minor child or children. If the property set apart is a homestead, selected from the separate property of the decedent, the court can set it apart only for a limited period, to be designated in the order, and, subject to such homestead right, the property remains subject to administration. [Amended Statutes 1907, p. 934.]

**Administration when estate does not exceed fifteen hundred dollars.**

§ 1469. If a deceased person leave a widow or minor child or minor children and upon the return of the inventory of the estate of such deceased person it shall appear to the court or a judge thereof by the verified petition of the personal representative of such deceased person or of his widow or of the guardian of his minor children or of any of them that the net value of the whole estate of said deceased over and above all liens or encumbrances of record at the date of the death of said deceased does not exceed the sum of one thousand five hundred dollars, the court, or a judge thereof, shall, by order, require all persons interested to appear on a day fixed to show cause why the whole of said estate should not be assigned for the use and support of the family of the deceased. Notice thereof shall be given and proceedings had in the same manner as provided in section one thousand four hundred sixty-five *a* of this code. If upon the hearing, the court finds that the net value of the estate over and above all liens or encumbrances of record at the date of the death of said deceased does not exceed the sum of one thousand five hundred dollars, it shall, by decree for that purpose, assign to the widow of the deceased, if there be a widow, or if there be no widow, then to the minor children of the deceased, if there be minor children, the whole of the estate, subject to whatever mortgages, liens, or encumbrances there may be upon said estate at the time of the death of said deceased, after the payment of the expenses of the last illness of the deceased, funeral charges, and expenses of administration, and the title thereof shall vest absolutely in such widow, if there is a widow, or if there is no widow, in the minor children or child, subject to whatever mortgages, liens or encumbrances there may be upon said estate at the time of the death of the deceased, and there must be no further proceedings in the administration, unless further estate be discovered. [Amended, Statutes 1917, p. 195.]

## THE HOMESTEAD.

### **Rights of survivor to homestead.**

§ 1474. If the homestead selected by the husband and wife, or either of them, during their coverture, and recorded while both were living, was selected from the community property, or from the separate property of the person selecting or joining in the selection of the same, it vests, on the death of the husband or wife, absolutely in the survivor. If the homestead was selected from the separate property of either the husband or wife, without his or her consent, it vests, on the death of the person from whose property it was selected, in his or her heirs, or devisees, subject to the power of the superior court to assign it for a limited period to the family of the decedent. In either case it is not subject to the payment of any debt or liability contracted by or existing against the husband and wife, or either of them, previous to or at the time of the death of such husband or wife, except as provided in the Civil Code. [Amended, Statutes 1911, p. 254.]

### **Selected and recorded homestead set off to person entitled.**

§ 1475. If the homestead selected and recorded prior to the death of the decedent be returned in the inventory appraised at not exceeding five thousand dollars in value, or was previously appraised as provided in the Civil Code, and such appraised value did not exceed that sum, the superior court must, by order, set it off to the persons in whom title is vested by the preceding section. If there be subsisting liens or encumbrances on the homestead, the claims secured thereby must be presented and allowed as other claims against the estate. If the funds of the estate be adequate to pay all claims against the estate, the claims so secured must be paid out of such funds. If the funds of the estate be not sufficient for that purpose, the claims so secured shall be paid proportionately with other claims allowed, and the liens or encumbrances on the homestead shall only be enforced against the homestead for any deficiency remaining after such payment; *provided*, that it shall be the duty of any executor or administrator, within sixty days after the first publication of notice to creditors, to notify in writing the record holder of any such lien or encumbrance upon real property subject to a declaration of homestead of the death of the testator or intestate, and unless so notified, the rights of the holder of such lien or encumbrance shall not be affected by his failure to present such claim as hereinabove required. [Amended, Statutes 1917, p. 783.]

### **When homestead exceeds \$5,000 in value.**

§ 1476. If the homestead, as selected and recorded, be returned in the inventory appraised at more than five thousand dollars, the appraisers must, before they make their return, ascertain and appraise

the value of the homestead at the time the same was selected, and if such value exceeded five thousand dollars, or if the homestead was appraised as provided in the Civil Code, and such appraised value exceeded that sum, the appraisers must determine whether the premises can be divided without material injury, and if they find that they can be thus divided, they must admeasure and set apart to the parties entitled thereto such portion of the premises, including the dwelling-house, as will amount in value to the sum of five thousand dollars, and make report thereof, giving the metes, bounds, and full description of the portion set apart as a homestead. If the appraisers find that the premises exceeded in value, at the time of their selection, the sum of five thousand dollars, and that they can not be divided without material injury, they must report such finding, and thereafter the court may make an order for the sale of the premises and the distribution of the proceeds to the parties entitled thereto. [Amended, Code Amdts. 1873-74, p. 363.]

#### **Report of appraisers.**

§ 1477. Any two of the appraisers concurring may discharge the duties imposed upon the three, and make the report. A dissenting report may be made by the third appraiser. The report must state fully the acts of the appraisers. Both reports may be heard and considered by the court in determining a confirmation or rejection of the majority report, but the minority report must in no case be confirmed.

#### **Confirming or rejecting report of appraisers. Appeal.**

§ 1478. When the report of the appraisers is filed, the court must set a day for hearing any objections thereto, from any one interested in the estate. Notice of the hearing must be given for such time, and in such manner as the court may direct. If the court be satisfied that the report is correct, it must be confirmed, otherwise rejected. In case the report is rejected, the court may appoint new appraisers to examine and report upon the homestead, and similar proceedings may be had for the confirmation or rejection of their report, as upon the first report. [Amended, Code Amdts. 1873-74, p. 363.]

#### **Limitation of actions for vacating sale, etc.**

§ 1573. No action for the recovery of any estate sold by an executor or administrator, under the provisions of this chapter, can be maintained by any heir or other person claiming under the decedent, unless it be commenced within three years next after the settlement of the final account of the executor or administrator. An action to set aside the sale may be instituted and maintained at any time within three years from the discovery of the fraud, or other grounds upon which the action is based. [Amended, Code Amdts. 1880, p. 112.]

**To what cases preceding section not to apply.**

§ 1574. The preceding section shall not apply to minors or others under any legal disability, to sue at the time when the right of action first accrues; but all such persons may commence an action at any time within three years after the removal of the disability.

## **MORTGAGES AND LEASES OF REAL ESTATE.**

**Mortgage of real property of decedent, minor, etc. Lease.**

§ 1577. Whenever, in any estate now being administered, or that may hereafter be administered, or in any guardianship proceeding now pending, or that may hereafter be pending, it shall appear to the superior court, or a judge thereof, to be for the advantage of the estate to raise money upon a note or notes to be secured by a mortgage of the real property of any decedent, or of a minor, or an incompetent person, or any part thereof, or to make a lease of said real property, or any part thereof, or to agree to sell or give an option to purchase a mining claim, or mining claims, or real property worked as a mine, or an undivided interest in real property, the court or judge, as often as occasion therefor shall arise in the administration of any estate, or in the course of any guardianship matter, may on a petition, notice and hearing as provided in this article authorize, empower and direct the executor or administrator, or guardian of such minor or incompetent person, to mortgage such real property, or any part thereof, and to execute a note or notes to be secured by such mortgage, or to lease such real estate, or any part thereof, or to enter into an agreement to sell such real estate, or any part thereof, or to give an option to purchase such real estate or any part thereof. The proceedings to be taken to obtain an order to enter into an agreement for the sale of or for an option to purchase a mining claim or claims or real property worked as a mine, and the effect thereof shall be as provided in section one thousand five hundred eighty of this code, and the provisions of said section in so far as applicable shall also govern the proceedings to be taken to obtain an order to enter into an agreement for the sale of or for an option to purchase an undivided interest in real property and the effect thereof. [Amended, Statutes 1915, p. 1492.]

**Proceedings to obtain order.**

§ 1578. To obtain an order to mortgage such realty, the proceedings to be taken and the effect thereof shall be as follows:

**What petition must show.**

*First*—The executor or administrator of any estate, or guardian of any minor or incompetent person, or any person interested in the estates of such decedents, minors, or incompetent persons, may file a verified petition showing:



1. The particular purpose or purposes for which it is proposed to make the note or notes and mortgage, which shall be either to maintain the ward and his family or to maintain and educate the ward when a minor, or to pay the debts, legacies, or charges of administration, or to pay, reduce, extend, or renew some lien or mortgage already subsisting on said realty or some part thereof; or, if the application be made by the guardian of any minor or incompetent person, to erect, alter or repair buildings or other structures upon, or otherwise to improve, the realty proposed to be mortgaged, or some part thereof.

2. A statement of the facts and circumstances showing the insufficiency of the income of the estate under guardianship to maintain the ward and his family or to maintain and educate the ward when a minor and the debts, legacies, charges of administration, liens or mortgages to be paid, reduced, extended, or renewed, as the case may be; or, if the application be made by the guardian of any minor or incompetent person for the purpose of improving the realty or some part thereof, the condition and value of all the real and personal property then belonging to the estate, a statement of all debts and obligations secured or unsecured outstanding against the estate, and the character and estimated cost of the buildings, structures or other improvements proposed to be erected, altered or repaired with the proceeds of the mortgage.

3. The advantage that many accrue to the estate from raising the required money by note or notes and mortgage or providing for the payment, reduction, extension, or renewal of the subsisting liens or mortgages, as the case may be; or, if the application be made by the guardian of a minor or incompetent person for the purpose of improving the realty belonging to the estate or some part thereof, the advantage that will accrue to the estate by the making of such improvements.

4. The amount to be raised, with a general description of the property proposed to be mortgaged; and,

5. The names of the legatees and devisees, if any, and of the heirs of the deceased, or of the minor, or of the incompetent person, as the case may be, so far as known to the petitioner.

**Order to appear.**

*Second*—Upon filing such petition, an order shall be made by the court or judge, requiring all persons interested in the estate to appear before the court or judge, at a time and place specified, not less than four nor more than ten weeks thereafter, then and there to show cause why the realty (briefly indicating it), or some part thereof, should not be mortgaged for the amount mentioned in the petition (stating such amount), or such lesser amount as to the court or judge shall seem meet, and referring to the petition on file for further particulars.

**Service of order.**

*Third*—The order to show cause may be personally served on the persons interested in the estate, at least ten days before the time appointed for hearing the petition, or may be published for four successive weeks in a newspaper of general circulation, published in the county.

**Hearing of petition.**

*Fourth*—At the time and at the place appointed in the order to show cause, or at such other time and place to which the hearing may be postponed (the power to make all needful postponements being hereby vested in the court or judge), having first received satisfactory proof of personal service or publication of the order to show cause, the court or judge must proceed to hear the petition and any objections that may be filed or presented thereto. Upon such hearing, witnesses may be compelled to attend and testify in the same manner, and with like effect, as in other cases; and if, after a full hearing, the court or judge is satisfied that it will be for the advantage of the estate to mortgage the whole or any portion of the real estate, an order must be made authorizing, empowering, and directing the executor or administrator, or the guardian of such minor or incompetent person, to make such mortgage, and a promissory note or notes to the lender, for the amount of the loan, to be secured by said mortgage; the order may direct that a lesser amount than that named in the petition be borrowed, and may prescribe the maximum rate of interest and period of the loan, and may direct in what coin or currency it shall be paid, and require that the interest and the whole or any part of the principal be paid, from time to time, out of the whole estate or any part thereof, and that any buildings on the premises to be mortgaged shall be insured for further security of the lender, and the premiums paid from such income.

**Executor to execute note and mortgage.**

*Fifth*—After the making of the order to mortgage, the executor, administrator, or guardian of a minor or of an incompetent person shall execute and deliver a promissory note or notes for the amount and period specified in the order, and shall execute, acknowledge, and deliver a mortgage of the premises, setting forth in the mortgage that it is made by authority of the order, and giving the date of such order. A certified copy of the order shall be recorded in the office of the county recorder of every county in which the incumbered land, or any portion thereof, lies. The note or notes and mortgage shall be signed by the executor, administrator, or guardian as such, and shall create no personal liability against the person so signing.

**Effect of such mortgage.**

*Sixth*—Every note or notes and mortgage so made shall be effectual to mortgage and hypothecate all the right, title, interest, and estate which the decedent, minor, or incompetent person had in the premises described therein at the time of the death of such decedent, or at the time of the appointment of the guardian of such minor or of such incompetent person, or prior thereto, had any right, title, or interest in said premises acquired by the estate of such decedent, minor, or incompetent person, by operation of law or otherwise, since the time of the death of such decedent, or the appointment of the guardian of such minor or incompetent person. Jurisdiction of the court to administer the estate of such decedent, minor, or incompetent person shall be effectual to vest such court and judge with jurisdiction to make the order for the note or notes and mortgage, and such jurisdiction shall conclusively inure to the benefit of the mortgagor.

named in the mortgage, his heirs and assigns. No irregularity in the proceedings shall impair or invalidate the same or the note or notes and mortgage given in the pursuance thereof, and the mortgagee, his heirs and assigns, shall have and possess the same rights and remedies on the note or notes and mortgage as if it had been made by the decedent prior to his death, the minor after reaching the age of maturity, or the incompetent person when legally competent; *provided, however*, that upon any foreclosure, if the proceeds of the encumbered property are insufficient to pay the note or notes, and mortgage, no judgment or claim for any deficiency or such proceeds to satisfy the note or notes and mortgage, or the costs or expenses of sale, shall be had or allowed, except in cases where the note or notes and mortgage were given to pay, reduce, extend, or renew a lien or mortgage subsisting on the realty, or some part thereof, at the time of the death of the decedent, and the indebtedness secured by such lien or mortgage was an allowed and approved claim against his estate, or a lien upon the interest of the minor in said real estate at the time it was vested in him, or upon the estate of the incompetent at the time the incompetency of the incompetent person was so declared by the court; *and provided, also*, that in cases affecting the estate of the deceased persons, the part of the indebtedness remaining unsatisfied must be classed and paid with other demands against the estate, as provided in article three, chapter ten, of title eleven, part three, of this code, with respect to mortgages subsisting at the time of death. [Amended, Statutes 1907, p. 988.]

#### **Manner of obtaining order to lease.**

§ 1579. To obtain an order to lease the realty, the proceedings to be taken and the effect thereof shall be as follows:

*First*—The executor, administrator, guardian of a minor or an incompetent person, or any person interested in the estates of such decedents, minors or incompetent persons, must file a verified petition showing:

- a. The advantage or advantages that may accrue to the estate from giving a lease.
- b. A general description of the property proposed to be leased.
- c. The term, rental, and general conditions of the proposed lease.
- d. The names of the legatees and devisees, if any, and of the heirs of the deceased, or of the minor, or of the incompetent person, so far as known to the petitioner.

*Second*—Upon filing such petition an order shall be made by the court or judge requiring all persons interested in the estate to appear before the court or judge, at a time and place specified, not less than two nor more than four weeks thereafter, then and there to show cause why the realty (briefly indicating it) should not be leased for the period (stating it), at the rental mentioned in the petition (stating it), and referring to the petition on file for further particulars.

*Third*—The order to show cause may be personally served on the persons interested in the estate at least ten days before the time appointed for hearing the petition, or it may be published for two successive weeks in a newspaper of general circulation in the county.

*Fourth*—At the time and place appointed to show cause, or at such other time and place to which the hearing may be postponed (the power to make all needful postponements being hereby vested in the court or judge), the court or judge having first received satisfactory proof of personal service or publication of the order to show cause, must proceed to hear the petition, and any objection that may have been filed or presented thereto. Upon such hearing witnesses may be compelled to attend and testify in the same manner and with like effect as in other cases, and the court may, in its discretion, appoint one or more, not exceeding three, disinterested persons to appraise the rental value of the premises, and direct that a reasonable compensation for the services, not exceeding five dollars per day, be paid by the estate. If, after a full hearing, the court or judge is satisfied that it will be for the advantage of the estate to lease the whole or any portion of the real estate, an order must be made authorizing, empowering and directing the executor, administrator, or the guardian, to make such lease. The order may prescribe the minimum rental or royalty to be received for the premises, and the period of the lease which must in no case be longer than for ten years, and may prescribe the other terms and conditions of such lease; *provided*, that, for the purpose of exploiting for minerals, or mineral oils or petroleum and extracting minerals therefrom, the period of the lease may be for twenty years.

*Fifth*—After the making of the order to lease, the executor, administrator, or guardian of a minor or of an incompetent person, shall execute, acknowledge, and deliver a lease of the premises for the term and period and with the conditions specified in the order, setting forth in the lease that it is made by authority of the order, and giving the date of such order. A certified copy of the order shall be recorded in the office of the county recorder of every county in which the leased land or any portion thereof lies.

*Sixth*—Every lease so made shall be effectual to demise and let, at the rent, for the term, and upon the conditions therein prescribed, the premises described therein. Jurisdiction of the court to administer the estate of the decedent, the minor, or of the incompetent person shall be effectual to vest such court and judge with jurisdiction to make the order for the lease, and such jurisdiction shall conclusively inure to the benefit of the lessee, his heirs and assigns. No omission, error, or irregularity in the proceedings shall impair or invalidate the same, or the lease made in pursuance thereof. [Amended, Statutes 1909, p. 540.]

#### **Service of process on guardian.**

§ 1722. Whenever an infant, insane, or incompetent person has a guardian of his estate residing in this state, personal service upon the guardian of any process, notice, or order of the court concerning the estate of a deceased person in which the ward is interested, is equivalent to service upon the ward, and it is the duty of the guardian to attend to the interests of the ward in the matter. Such guardian may also appear for his ward and waive any process, notice, or order to show cause which an adult or a person of sound mind might do. [Amended, Code Amdts. 1880, p. 107.]

### **Disposition of life estates.**

§ 1723. If any person has died or shall hereafter die who at the time of his death was the owner of a life estate which terminates by reason of the death of such person; or if such person at the time of his death was one of two or more persons holding land in joint tenancy, which land by reason of his death vests absolutely in the surviving joint tenant or tenants; or if such person at the time of his death was the spouse of a person owning land upon which either spouse had declared a homestead, the homestead interest of which deceased person absolutely terminated by reason of his death; any person interested in the land, or in the title thereto, in which such estate or interest was held, may file in the superior court of the county in which the land or any part thereof is situated, his verified petition setting forth such facts, and thereupon and after such notice by publication or otherwise as the court may order; *provided*, that notice shall be given in each county where any part of said land is situated in the same manner as in the county where said petition is filed, the court shall hear such petition and the evidence offered in support thereof, and if upon such hearing it shall appear that such estate or interest so terminated or vested, the court shall make a decree to that effect, and thereupon a certified copy of such decree shall be recorded in the office of the county recorder of each county in which any part of said land is situated, and thereafter shall have the same effect as a decree of final distribution so recorded; *provided*, that if such estate or interest was a joint tenancy, any inheritance tax which is due and payable by reason of the death of such deceased person, must be fully paid before such decree is made; and the amount of said inheritance tax shall be fixed, and said tax shall be paid, in the same manner as in the case of an administration upon the estate of a decedent. [Amended, Statutes 1917, p. 1397.]

### **GUARDIANS OF MINORS.**

#### **Superior court to appoint guardians.**

§ 1747. The superior court of each county, when it appears necessary or convenient, may appoint guardians for the persons and estates, or either of them, of minors who have no guardian legally appointed by will or deed, and who are inhabitants or residents of the county, or who reside without the state and have estate within the county. Such appointment may be made on the petition of a relative or other person on behalf of the minor, or on the petition of the minor, if fourteen years of age. Before making such appointment, the court must cause such notice as such court deems reasonable to be given to any person having the care of such minor, and to such relatives of the minor residing in the county as the court may deem proper. In all such proceedings, when it appears to the satisfaction of the court, either from a verified petition, or from affidavits, that the welfare of the minor will be imperiled if such minor is allowed

to remain in the custody of the person then having the care of such minor, the court may make an order providing for the temporary custody of such minor until a hearing can be had on such petition; and when it appears to the court that there is reason to believe that such minor will be carried out of the jurisdiction of the court before which the application is made, or will suffer some irreparable injury before compliance with such order providing for the temporary custody of such minor can be enforced, such court may at the time of making such order providing for the temporary custody of such minor cause a warrant to be issued, reciting the facts, and directed to the sheriff, coroner, or constable of the county, commanding such officer to take such minor from the custody of the person in whose care such minor then is and place such minor in custody in accordance with the order of the court. [Amended, Statutes 1903, p. 204.]

**When minor may nominate guardian.**

§ 1748. If the minor is under the age of fourteen years, the court may nominate and appoint his guardian. If he is fourteen years of age, he may nominate his own guardian, who, if approved by the court, must be appointed accordingly. [Amended, Code Amdts. 1880, p. 65.]

**When appointment may be made by court.**

§ 1749. If the guardian nominated by the minor is not approved by the court, or if the minor resides out of the state, or if, after being duly cited by the court, he neglects for ten days to nominate a suitable person, the court or judge may nominate and appoint the guardian in the same manner as if the minor were under the age of fourteen years. [Amended, Code Amdts. 1880, p. 65.]

**Nomination of minors after arriving at fourteen.**

§ 1750. When a guardian has been appointed by the court for a minor under the age of fourteen years, the minor, at any time after he attains that age, may nominate his own guardian, subject to the approval of the court. [Amended, Statutes 1907, p. 943.]

**Who may be guardian.**

§ 1751. The father or the mother of a minor child under the age of fourteen years, if found by the court competent to discharge the duties of guardianship, is entitled to be appointed a guardian of such minor child, in preference to any other person. The person nominated by a minor of the age of fourteen years as his guardian, whether married or unmarried, may, if found by the court competent to discharge the duties of guardianship, be appointed as such guardian. The authority of a guardian is not extinguished nor affected by the marriage of the guardian. [Amended, Statutes 1891, p. 136.]

• § 1752. Repealed.

### **Powers and duties of guardian.**

§ 1753. Every guardian appointed has the custody and care of the education of the minor and the care and management of his estate, until such minor arrives at the age of majority or marries, or until the guardian is legally discharged, unless he is appointed guardian only of the person of the ward. In that event, the guardian is charged with the custody of the ward, and must look to his support, health, and education. He may fix the residence of the ward at any place in the state, but not elsewhere without the permission of the court. [Amended, Statutes 1907, p. 943.]

### **Bond of guardian.**

§ 1754. Before the order appointing any person guardian under this chapter takes effect, and before letters issue, the court must require of such person a bond to the minor with sufficient sureties, to be approved by the judge, and in such sum as he shall order, conditioned that the guardian will faithfully execute the duties of his trust according to law, and the following conditions shall form a part of such bond without being expressed therein:

1. To make an inventory of all the estate, real and personal, of his ward, that comes to his possession or knowledge, and to return the same within such time as the court may order.

2. To dispose of and manage the estate according to law and for the best interest of the ward, and faithfully to discharge his trust in relation thereto, and also in relation to the care, custody, and education of the ward.

3. To render an account on oath of the property, estate, and moneys of the ward in his hands, and all proceeds or interests derived therefrom, and of the management and disposition of the same, within three months after his appointment, and at such other times as the court directs, and at the expiration of his trust to settle his accounts with the court, or with the ward, if he be of full age, or his legal representatives, and to pay over and deliver all the estate, moneys, and effects remaining in his hands, or due from him on such settlement, to the person who is lawfully entitled thereto.

Upon filing the bond, duly approved, letters of guardianship must issue to the person appointed. In form the letters of guardianship must be substantially the same as letters of administration, and the oath of the guardian must be indorsed thereon that he will perform the duties of his office as such guardian according to law. [Amended, Code Amdts. 1880, p. 65.]

### **Court may insert conditions in order appointing guardian.**

§ 1755. When any person is appointed guardian of a minor, the court may, with the consent of such person, insert in the order of appointment, conditions not otherwise obligatory, providing for the care, treatment, education, and welfare of the minor and for the

care and custody of his property. The performance of such conditions shall be a part of the duties of the guardian, for the faithful performance of which he and the sureties on his bond shall be responsible. [Amended, Statutes 1899, p. 4.]

**Letters of guardianship to be recorded.**

§ 1756. All letters of guardianship issued and all guardian's bonds executed under the provisions of this chapter, with the affidavits and certificates thereon, must be recorded by the clerk of the court having jurisdiction of the persons and estates of the wards. [Amended, Code Amdts. 1880, p. 66.]

**Maintenance of minor out of income of his own property.**

§ 1757. If any minor having a father living has property, the income of which is sufficient for his maintenance and education in a manner more expensive than his father can reasonably afford, regard being had to the situation of the father's family and to all the circumstances of the case, the expenses of the education and maintenance of such minor may be defrayed out of the income of his own property, in whole or in part, as judged reasonable, and must be directed by the court; and the charges therefor may be allowed accordingly in the settlement of the accounts of his guardian. [Amended, Code Amdts. 1880, p. 66.]

**Guardian to give bond.**

§ 1758. Every testamentary guardian must qualify and has the same powers and must perform the same duties with regard to the person and estate of his ward as guardians appointed by the court, except so far as his powers and duties are legally modified, enlarged, or changed by the will by which such guardian was appointed, and except that such guardian need not give bond unless directed to do so by the court from which the letters of guardianship issue. [Amended, Statutes 1903, p. 53.]

**Power of courts to appoint guardians not impaired.**

§ 1759. Nothing contained in this chapter affects or impairs the power of any court to appoint a guardian to defend the interests of any minor interested in any suit or matter pending therein.

**Transfer of proceedings from one county to another.**

§ 1760. The superior court of any county in this state in which is now pending, or in which there may be hereafter commenced, any proceeding which has for its object the guardianship of the estate of any minor or insane or incompetent person, or the guardianship of the person of any minor or insane or incompetent person, or both the guardianship of the estate and the guardianship of the person of a minor or insane or incompetent person, may make an order transferring such proceeding to the superior court of any other county in



this state, in the manner herein provided; except that no such proceeding shall be transferred to the court of any county which at the time of such proceeding would not have jurisdiction to issue original letters in such matter or proceeding. To obtain an order for such removal, the guardian of the person or estate, or both, of such minor or insane or incompetent person, shall file in the superior court of the county where such proceeding is pending, a verified petition setting forth the following matters:

1. The name of the county to the superior court of which it is sought to remove such proceedings;
2. The name of the county or counties in which the ward resides and that in which the guardian resides;
3. The name of the county or counties in which the property of such ward is situated, and a designation of the character and condition thereof;
4. The reasons for such removal;
5. The names and residences, so far as they are known to said guardian, of any relatives of such minor ward residing in said county in which said proceeding is pending;
6. The names and residences, so far as the same are known to said guardian, of the relatives within the third degree of such insane or incompetent ward residing in said county.

Upon filing such petition an order shall be made by the court or judge fixing a time for hearing said petition, which shall be not less than five days thereafter, and directing that a copy of such order be sent through the United States mail to each of the said relatives of such minor or insane or incompetent ward, named in said petition as resident in the county in which said proceeding is pending. The court may require such other or further notice of said hearing as it may deem proper. At the time fixed for the hearing of said petition any relatives of such ward, or any person interested in the estate of such ward, may appear and file written grounds of opposition to said petition. If after hearing the evidence of the petitioner, and contestant if any, it shall appear to the court that it is for the best interest and advantage of said ward, or of the estate of said ward that the removal of said proceeding be had to the court designated in said petition, or to the superior court of any other county, it shall enter an order directing the removal thereof to said court and directing the clerk to forward all papers on file therein to the clerk of the court to which said proceeding has been ordered removed, and thereafter the court to which said proceeding has been removed shall have jurisdiction of all proceedings therein as fully as if said proceeding has been originally begun in said court. The clerk of the court to which said proceeding is removed shall be entitled to receive a fee of six dollars on filing the papers transmitted to him, in addition to the expense of such transmission, payable on receipt of the papers by him. [Enacted, Statutes 1905, p. 171.]

**When power of guardian is superseded.**

§ 1760a. The power of a guardian appointed by a court is superseded:

1. By order of the court;
2. If the appointment was made solely because of the ward's minority, by his attaining majority;
3. The guardianship over the person of the ward, by the marriage of the ward. [Enacted, Statutes 1907, p. 943.]

**Guardian of estate of minor, etc.**

§ 1761. At any time after the issuance of letters of guardianship upon the estate of any minor, insane or incompetent person, any relative of the ward, or the attorney for such relative, may serve upon the guardian, or upon the attorney for the guardian, and file with the clerk of the court wherein administration of such ward's estate is pending, a written request, stating that he desires special notice of any or all of the following mentioned matters, steps or proceedings in the administration of said estate, to wit:

1. Filing of petitions for sales, leases or mortgages of any property of the ward's estate.
2. Filing of accounts.
3. Filing of application for removal of ward's property to any foreign jurisdiction.
4. Filing of petitions for partition of any property of the ward's estate.
5. Proceedings for removal, suspension or discharge of the guardian, or final determination of the guardianship. Such request shall state the post office address of such relative, or his attorney, and thereafter a brief notice of the filing of any of such petitions, applications, or accounts, or proceedings, except petitions for sale of perishable property, or other personal property which will incur expense or loss by keeping, shall be addressed to such relative, or his attorney, at his stated post office address, and [1] deposited in the United States post office with the postage thereon prepaid, within two days after the filing of such petition, account, application, or the commencement of such proceeding; [2] or personal service of such notices may be made on such relative, or his attorney, within said two days, and such personal service shall be equivalent to such deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of any such matter. If, upon the hearing it shall appear to the satisfaction of the court that the said notice has been regularly given, the court shall so find in its order or judgment, and such judgment shall be final and conclusive upon all persons. [Enacted, Statutes 1909, p. 262.]

## THE POWERS AND DUTIES OF GUARDIANS.

### **Guardian to pay debts of ward out of ward's estate.**

§ 1768. Every guardian appointed under the provisions of this chapter, whether for a minor or any other person, must pay all debts due from the ward out of his personal estate and the income of his real estate if sufficient, if not, then out of his real estate upon obtaining an order for the sale or mortgage thereof, and dispose of the same in the manner provided in this title for the sale of real estates of decedents. [Amended, Statutes 1907, p. 944.]

§ 1768a. Every guardian appointed under the provisions of this chapter, whether for a minor or any other person, must pay all just debts due from the ward, out of his personal estate, and the income of his real estate, if sufficient; if not, then out of his real estate, upon obtaining an order for the sale thereof, and disposing of the same in the manner provided in article four of this chapter. [Amended, Statutes 1907, p. 981.]

### **Guardian to recover debts due his ward.**

§ 1769. Every guardian must settle all accounts of the ward, and demand, sue for, and receive all debts due to him, or may, with the approbation of the court, compound for the same and give discharges to the debtor, on receiving a fair and just dividend of his estate and effects; and he must appear for and represent his ward in all legal suits and proceedings, unless another person be appointed for that purpose. [Amended, Code Amdts. 1880, p. 68.]

### **Guardian to manage his estate.**

§ 1770. Every guardian must manage the estate of his ward frugally and without waste, and apply the income and profits thereof, as far as may be necessary, for the comfortable and suitable maintenance and support of the ward and his family, if there be any; and if such income and profits be insufficient for that purpose, the guardian may sell or mortgage the real estate, upon obtaining an order of the court therefor, as provided, and must apply the proceeds of such sale or mortgage, as far as may be necessary, for the maintenance and support of the ward and his family, if there be any. [Amended, Statutes 1901, p. 85.]

### **Maintenance, support and education of ward.**

§ 1771. When a guardian has advanced for the necessary maintenance, support, or education of his ward, an amount not disproportionate to the value of his estate or his condition of life, and the same is made to appear to the satisfaction of the court, by proper vouchers and proofs, the guardian must be allowed credit therefor in his settlements. Whenever a guardian fails, neglects, or refuses to furnish suitable and necessary maintenance, support, or education

for his ward, the court may order him to do so, and enforce such order by proper process. Whenever any third person, at his request, supplies a ward with such suitable and necessary maintenance, support, or education, and it is shown to have been done after refusal or neglect of the guardian to supply the same, the court may direct the guardian to pay therefor out of the estate, and enforce such payment by due process.

#### **Guardians, powers of, in partition.**

§ 1772. The guardian may join in and assent to a partition of the real or personal estate of the ward, wherever such assent may be given by any person; *provided*, that such assent can only be given after the court having jurisdiction over said estate shall grant an order conferring such authority, which order shall only be made after a hearing in open court upon the petition of the guardian after notice of at least ten days, mailed by the clerk of the court to all the known relatives of the ward residing in the county where the proceedings are pending. The guardian may also consent to a partition of the real or personal estate of his ward without action, and agree upon the share to be set off to such ward, and may execute a release in behalf of his ward to the owners of the shares, of the parts to which they may be respectively entitled, upon obtaining from said court having jurisdiction over said estate, authority to so consent after a hearing in open court upon the petition of the guardian after notice of at least ten days, mailed by the clerk of the court to all the known relatives of the ward residing in the county where the proceedings are pending. [Amended, Statutes 1899, p. 235.]

#### **Inventory of ward's estate.**

§ 1773. Every guardian must return to the court a verified inventory of the estate of his ward within three months after his appointment. He must annually thereafter, and at such other times as directed by the court, render a verified account of the estate of his ward. All the estate of the ward described in the first inventory must be appraised by appraisers appointed, sworn, and acting in the manner provided for regulating the settlement of the estates of decedents. Such inventory, with the appraisement of the property therein described, must be recorded by the clerk of the court in a proper book kept in his office for that purpose and whenever any ward is or has been during the guardianship confined in a state hospital for the insane in this state a copy of said inventory must be served upon the secretary of the state commission in lunacy or its attorney. Whenever any other property of the estate of any ward is discovered, not included in the inventory of the estate already returned, and whenever any other property, has been succeeded to, or acquired by any ward, or for his benefit, the like proceedings must be had for the return and appraisement thereof and the service of the same as are herein provided in relation to the first inventory and

return. If within the time prescribed, or within such further time, not exceeding two months which the court or judge shall for reasonable cause allow, the guardian neglects or refuses to return the inventory or render his account, the court may, upon notice, revoke the letters of guardianship and the guardian shall be liable on his bond for any injury to the estate, or any person interested therein, arising from such failure. [Amended, Statutes 1913, p. 214.]

#### **Account of guardian.**

§ 1774. The guardian must upon the expiration of a year from the time of his appointment and as often thereafter as he may be required, present his account to the court for settlement and allowance; *provided*, that no account of the guardian of any insane person, who is or has been during such guardianship confined in a state hospital in this state, shall be settled or allowed unless notice of the settlement of said account shall have been first given to the secretary of the state commission in lunacy or its attorney at least five days before the hearing. The termination of the relation of guardian and ward by the death of either guardian or ward or by the ward attaining his majority or being restored to capacity shall not cause the court to lose jurisdiction of the proceeding for the purpose of settling the accounts of the guardian. [Amended, Statutes 1913, p. 215.]

#### **Allowance of accounts of joint guardians.**

§ 1775. When an account is rendered by two or more joint guardians, the court may, in its discretion, allow the same upon the oath of any of them. [Amended, Code Amdts. 1880, p. 68.]

#### **Expenses and compensation of guardian.**

§ 1776. Every guardian must be allowed the amount of his reasonable expenses incurred in the execution of his trust, and he must also have such compensation for his services as the court in which his accounts are settled deems just and reasonable. He must also be allowed all reasonable and proper disbursements, made after the legal termination of the guardianship, but while that relation, by consent or acquiescence of the parties, still subsists in fact, and before the discharge of the guardian by the court, and which were made by the consent, express or implied, of the ward, and for his benefit or the benefit of his estate. [Amended, Statutes 1907, p. 945.]

### **SALE OF PROPERTY AND DISPOSITION OF THE PROCEEDS.**

#### **When income from ward's estate is insufficient.**

§ 1777. When the income of an estate under guardianship is insufficient to maintain the ward and his family or to maintain and educate the ward when a minor, or to pay for his care, treatment and support, if con-

fined in a state hospital for the insane, his guardian may sell his real or personal estate, or mortgage the real estate for that purpose, upon obtaining an order therefor; *provided*, that no such order shall be granted when the ward is or has been, during the guardianship, confined in a state hospital for the insane in this state unless notice of the proceedings shall have been given to the secretary of the state commission in lunacy or its attorney at least five days before the hearing. [Amended, Statutes 1913, p. 215.]

#### **Sale of real estate to be made upon order of court.**

§ 1778. When it appears to the satisfaction of the court, upon the petition of the guardian, that for the benefit of his ward his real estate, or some part thereof, should be sold, and the proceeds thereof put out at interest, or invested in some productive stock, or in the improvement or security of other real estate of the ward, his guardian may sell the same for such purpose, upon obtaining an order therefor.

#### **Application of proceeds of sales.**

§ 1779. If the estate is sold for the purposes mentioned in this article, the guardian must apply the proceeds of the sale to such purposes, as far as necessary, and put out the residue, if any, on interest, or invest it in the best manner in his power, until the capital is wanted for the maintenance of the ward and his family, or the education of his children, or for the education of the ward when a minor, in which case the capital may be used for that purpose, as far as may be necessary, in like manner as if it had been personal estate of the ward.

#### **Investment of proceeds of sales.**

§ 1780. If the estate is sold for the purpose of putting out or investing the proceeds, the guardian must make the investment according to his best judgment, or in pursuance of any order that may be made by the court. [Amended, Code Amdts. 1880, p. 68.]

#### **Order for sale, how obtained.**

§ 1781. To obtain an order for such sale, the guardian must present to the court in which he was appointed guardian a verified petition therefor, setting forth the condition of the estate of his ward, and the facts and circumstances on which the petition is founded, tending to show the necessity or expediency of a sale. [Amended, Code Amdts. 1880, p. 69.]

#### **Notice to next of kin.**

§ 1782. If it appear to the court, or a judge thereof, from the petition, that it is necessary or would be beneficial to the ward that the real estate, or some part of it, should be sold, or that the real and personal estate should be sold, the court must thereupon make an order directing the next of kin to the ward, and all persons interested in the estate, to appear before the court, at a time and place therein specified, not less than four nor more

than eight weeks from the time of making such order, to show cause why an order should not be granted for the sale of such estate. If it appear that it is necessary or would be beneficial to the ward to sell the personal estate, or some part of it, the court must order the sale to be made. [Amended, Code Amdts. 1880, p. 69.]

**Copy of order to be served.**

§ 1783. A copy of the order must be personally served on the next of kin of the ward, and on all persons interested in the estate, at least fourteen days before the hearing of the petition, or must be published at least once a week for three successive weeks in a newspaper printed in the county, or if there be none printed in the county, then in such newspaper as may be specified by the court in the order. If written consent to making the order of sale is subscribed by all persons interested therein, and the next of kin, notice need not be served or published. [Amended, Code Amdts. 1880, p. 69.]

**Hearing of application.**

§ 1784. The court, at the time and place appointed in the order, or such other time to which the hearing is postponed, upon proof of the service or publication of the order, must hear and examine the proofs and allegations of the petitioner, and of the next of kin, and of all other persons interested in the estate who oppose the application. [Amended, Code Amdts. 1880, p. 69.]

**Who may be examined on such hearing.**

§ 1785. On the hearing, the guardian may be examined on oath, and witnesses may be produced and examined by either party, and process to compel their attendance, and testimony may be issued by the court, in the same manner and with like effect as in other cases provided for in this title. [Amended, Code Amdts. 1880, p. 69.]

**Costs to be awarded, to whom.**

§ 1786. If any person appears and objects to the granting of any order prayed for under the provisions of this article, and it appears to the court that either the petition or the objection thereto is sustained, the court may, in granting or refusing the order, award costs to the party prevailing, and enforce the payment thereof.

**Order of sale, to specify what.**

§ 1787. If, after a full examination, it appears necessary, or for the benefit of the ward, that his real estate, or some part thereof should be sold, the court may grant an order therefor, specifying therein the causes or reasons why the sale is necessary or beneficial, and may, if the same has been prayed for in the petition, order such sale to be made either at public or private sale.

### **Bond before selling.**

§ 1788. Every guardian authorized to sell real estate, must, before the sale, give bond to the ward, with sufficient surety, to be approved by the court, or a judge thereof, with condition to sell the same in the manner, and to account for the proceeds of the sale as provided for in this chapter and chapter seven of this title. [Amended, Code Amdts. 1880, p. 69.]

### **Proceedings for sales of property to conform to chapter seven of this title.**

§ 1789. All the proceedings under petition of guardians for sales of property of their wards, giving notice and the hearing of such petitions, granting or refusing the order of sale, directing the sale to be made at public or private sale, reselling the same property, return of sale and application for confirmation thereof, notice and hearing of such application, making orders, rejecting or confirming sales and reports of sales, ordering and making conveyances of property sold, accounting and the settlement of accounts, must be had and made as required by the provisions of this title concerning estates of decedents, unless otherwise specially provided in this chapter.

### **Proceedings for the completion of contracts for sale of real estate by guardians.**

§ 1789a. All proceedings for the completion of contracts for the sale of real estate by guardians must be had and made as required by the provisions of this title concerning the conveyance of real estate by executors and administrators under sections fifteen hundred and ninety-seven to sixteen hundred and seven, inclusive, of this code, and said sections are hereby made applicable to conveyances by guardians as provided by section eighteen hundred and ten a.

Repealing clause. Sec. 2. All acts and parts of acts inconsistent with this act are hereby repealed. [Enacted, Statutes 1909, p. 986.]

### **Limit of order of sale.**

§ 1790. No order of sale granted in pursuance of this article continues in force more than one year after granting the same, without a sale being had.

### **Conditions of sales of real estate of minor heirs.**

§ 1791. All sales of real estate of wards must be for cash, or for part cash and part deferred payments, the credit in no case to exceed three years from date of sale, as in the discretion of the court is most beneficial to the ward. Guardians making sales must demand and receive from the purchasers, in case of deferred payments, notes, and a mortgage on the real estate sold, with such additional security as the court deems necessary and sufficient to secure the prompt payment of the amounts so deferred, and the interest thereon. [Amended, Code Amdts. 1880, p. 70.]



**Court may order investment of money of ward.**

§ 1792. The Court, on the application of a guardian, or any person interested in the estate of any ward, after such notice to persons interested therein as the court shall direct, may authorize and require the guardian to invest the proceeds of sales, and any other of his ward's money in his hands, in real estate, or in any other manner most to the interest of all concerned therein, and the court may make such other orders and give such directions as are needful for the management, investment, and disposition of the estate and effects as circumstances require. [Amended, Code Amdts. 1880, p. 70.]

**NON-RESIDENT GUARDIANS AND WARDS.**

**Guardians of non-resident persons.**

§ 1793. The superior court may appoint a guardian of the person and estate, or either, of a minor, insane or incompetent person, who has no guardian within the state, legally appointed by will, deed or otherwise, and who resides without the state and has estate within the county or, who, though not having such estate, is within the county, upon petition of any friend of such person or any one interested in his estate, in expectancy or otherwise. Before making such appointment, the court must cause notice to be given to all persons interested, in such manner as such court deems reasonable. [Amended, Statutes 1907, p. 945.]

**Powers and duties of guardians.**

§ 1794. Every guardian, appointed under the preceding section, has the same powers and performs the same duties, with respect to the estate of the ward found within this state, and with respect to the person of the ward, if he shall come to reside therein, as are prescribed with respect to any other guardian appointed under this chapter.

**Such guardians to give bonds.**

§ 1795. Every guardian must give bond to the ward, in the manner and with the like conditions as hereinbefore provided for other guardians, except that the provisions respecting the inventory, the disposal of the estate and effects, and the account to be rendered by the guardian, must be confined to such estate and effects as come to his hands in this state.

**To what guardianship shall extend.**

§ 1796. The guardianship which is first lawfully granted of any person residing without this state extends to all the estate of the ward within this state, and excludes the jurisdiction of the court of every other county. [Amended, Code Amdts. 1880, p. 70.]

**Removal of non-resident ward's property.**

§ 1797. When the guardian and ward are both non-residents, and the ward is entitled to property in this state, which may be removed to another state or foreign country without conflict with any restriction or limitation thereupon, or impairing the right of the ward thereto, such property

may be removed to the state or foreign country of the residence of the ward, upon the application of the guardian to the superior court of the county in which the estate of the ward, or the principal part thereof, is situated. [Amended, Code Amdts. 1880, p. 70.]

**Proceedings on such removal.**

§ 1798. The application must be made upon ten days' notice to the resident executor, administrator, or guardian, if there be such, and upon such application the non-resident guardian must produce and file a certificate, under the hand of the clerk and seal of the court, from which his appointment was derived, showing:

1. A transcript of the record of his appointment.
2. That he has entered upon the discharge of his duties.
3. That he is entitled, by the laws of the state of his appointment, to the possession of the estate of the ward; or, must produce and file a certificate, under the hand and seal of the clerk of the court having jurisdiction in the country of his residence, of the estates of persons under guardianship, or of the highest court of such country, attested by a minister, consul, or vice-consul of the United States, resident in such country, that, by the laws of such country, the applicant is entitled to the custody of the estate of his ward, without the appointment of any court. Upon such application, unless good cause to the contrary is shown, the court must make an order granting to such guardian leave to take and remove the property of his ward to the state or place of his residence, which is authority to him to sue for and receive the same in his own name, for the use and benefit of his ward. [Amended, Code Amdts. 1880, p. 71.]

**Discharge of person in possession.**

§ 1799. Such order is a discharge of the executor, administrator, local guardian, or other person in whose possession the property may be at the time the order is made, on filing with the clerk of the court a receipt therefor of a foreign guardian of such absent ward, and transmitting a duplicate receipt, or a certified copy of such receipt, to the court from which such non-resident guardian received his appointment. [Amended, Code Amdts. 1895, p. 28.]

**GENERAL AND MISCELLANEOUS PROVISIONS.**

**Examination of persons suspected of defrauding wards.**

§ 1800. Upon complaint made by any guardian, ward, creditor, or other person interested in the estate, or having a prospective interest therein as heir or otherwise, against any one suspected of having concealed, embezzled, smuggled, or fraudulently disposed of, any of the money, goods, or effects, or an instrument in writing belonging to the ward or to his estate, the superior court may cite such suspected person to appear before such court, and may examine and proceed against him on such charge in the manner provided in

this title with respect to persons suspected of and charged with concealing, embezzling, smuggling, or fraudulently disposing of the effects of a decedent. [Amended, Statutes 1907, p. 945.]

#### **Removal and resignation of guardian.**

§ 1801. When a guardian, appointed either by the testator or a court, becomes insane or otherwise incapable of discharging his trust or unsuitable therefor, or has wasted or mismanaged the estate, or failed for thirty days to render an account or make a return, the superior court may, upon such notice to the guardian as the court may require, remove him and compel him to surrender the estate of the ward to the person found to be lawfully entitled thereto. Every guardian may resign when it appears proper to allow the same; and upon the resignation or removal of a guardian, as herein provided, the court may appoint another in the place of the guardian who resigned or was removed. [Amended, Code Amdts. 1880, p. 71.]

#### **Guardianship, how terminated.**

§ 1802. The marriage of a minor ward terminates the guardianship of the person of such ward, but not the estate; and the guardian of an insane or other person may be discharged by the court, when it appears on the application of the ward or otherwise, that the guardianship is no longer necessary. [Amended, Code Amdts. 1880, p. 72.]

#### **New bond, when required.**

§ 1803. The court may require a new bond to be given by a guardian whenever such court deems it necessary, and may discharge the existing sureties from further liability, after due notice given as such court may direct, when it shall appear that no injury can result therefrom to those interested in the estate. [Amended, Code Amdts. 1880, p. 72.]

#### **Guardian's bond to be filed.**

§ 1804. Every bond given by a guardian must be filed and preserved in the office of the clerk of the superior court of the county, and in case of a breach of a condition thereof, may be prosecuted for the use and benefit of the ward, or of any person interested in the estate. [Amended, Code Amdts. 1880, p. 72.]

#### **Limitation of actions on guardian's bond.**

§ 1805. No action can be maintained against the sureties on any bond given by a guardian, unless it be commenced within three years from the discharge or removal of the guardian; but if at the time of such discharge the person entitled to bring such action is under any legal disability to sue, the action may be commenced at any time within three years after such disability is removed.

**Limitation of actions for recovery of property sold.**

§ 1806. No action for the recovery of any estate, sold by a guardian, can be maintained by the ward, or by any person claiming under him, unless it is commenced within three years next after the termination of the guardianship, or when a legal disability to sue exists by reason of minority or otherwise, at the time when the cause of action accrues, within three years next after the removal thereof.

**More than one person may be appointed.**

§ 1807. The court, in its discretion, whenever necessary, may appoint more than one guardian of any person subject to guardianship, each of whom must give a separate bond, and be governed and liable in all respects as a sole guardian. [Amended, Statutes 1907, p. 945.]

**Order appointing guardian.**

§ 1808. Any order appointing a guardian, must be entered as and become a decree of the court. The provisions of this title relative to the estates of decedents, so far as they relate to the practice in the superior court, apply to proceedings under this chapter. [Amended, Code Amdts, 1880, p. 72.]

**Sections 1056 and 1057 apply to guardians.**

§ 1809. The provisions of sections ten hundred and fifty-six and ten hundred and fifty-seven are hereby declared to apply to guardians appointed by the court, and to the bonds taken or to be taken from such guardians, and to the sureties on such bonds. [Amended, Statutes 1907, p. 946.]

**Guardian of incompetent.**

§ 1810. When a person who is bound by a contract in writing to convey any real estate shall afterwards and before making the conveyance become and be adjudged to be an incompetent person, the court may make a decree authorizing and directing his guardian to convey such real estate to the person entitled thereto. Such decree may be made under the provisions of sections fifteen hundred and ninety-seven to sixteen hundred and seven, both inclusive, of this code, all of which provisions are hereby incorporated in this section; the word incompetent being substituted for the word deceased or decedent and the word guardian being substituted for the words administrator or executor, respectively, wherever said words occur. [Enacted, Statutes 1903, p. 166.]

**Conveyances by guardians.**

§ 1810a. When a person who is bound by contract in writing to convey any real estate, or to transfer any personal property, dies before making conveyance or transfer, and in all cases when such

decedent, if living might be compelled to make such conveyance or transfer, the court, having jurisdiction of the guardianship proceedings of such minor may make a decree authorizing and directing the guardian of any minor who has succeeded by distribution to the estate of such deceased person to convey or transfer such real estate or personal property to the person entitled thereto. [Enacted, Statutes 1911, p. 367.]

**Attorney's fees against minor fixed by court.**

§ 1810b. All contracts for attorney's fees made by or for the benefit of minors shall be void, and whenever a judgment shall be recovered by or on behalf of a minor, the attorney's fees chargeable against said minor shall be fixed by the court in which said judgment is rendered; and if said judgment is for money, and there is no general guardian of said minor, one shall be appointed by the court, and the entire amount of the judgment shall be paid to and shall be cared for by such general guardian, under the control of the court. [Enacted, Statutes 1913, p. 35.]

**SOLE TRADERS.**

**Who may become sole traders.**

§ 1811. A married woman may become a sole trader by the judgment of the superior court of the county in which she has resided for six months next preceding the application. [Amended, Statutes 1881, p. 10.]

**Notice, how given and what to contain.**

§ 1812. A person intending to make application to become a sole trader must publish notice of such intention in a newspaper published in the county, or if none, then in a newspaper published in an adjoining county, once a week for four successive weeks. The notice must specify the day upon which application will be made, the nature and place of the business proposed to be conducted by her, and the name of her husband. [Amended, Statutes 1881, p. 10.]

**Petition.**

§ 1813. Ten days prior to the day named in the notice, the applicant must file a verified petition setting forth:

1. That the application is made in good faith, to enable the applicant to support herself, or herself and others dependent upon her, giving their names and relation;
2. The fact of insufficient support from her husband, and the causes thereof, if known;
3. Any other grounds of application which are good causes for a divorce, with the reason why a divorce is not sought; and

4. The nature of the business proposed to be conducted, and the capital to be invested therein, if any, and the sources from which it is derived.

**May have \$500 of community or husband's property.**

§ 1814. The applicant may invest in the business proposed to be conducted, a sum derived from the community property or of the separate property of the husband, not exceeding five hundred dollars.

**Who may oppose it, and how.**

§ 1815. Any creditor of the husband may oppose the application, by filing in the court (prior to the day named in the notice) a written opposition verified, containing either:

1. A specific denial of the truth of any material allegation of the petition; or setting forth,
2. That the application is made for the purpose of defrauding the opponent; or,
3. That the application is made to prevent, or will prevent, him from collecting his debt.

**Trial or hearing.**

§ 1816. On the day named in the notice, or on such other day to which the hearing may be postponed by the court, the applicant must make proof of publication of the notice hereinbefore required, and the issues of fact joined, if any, must be tried as in other cases; if no issues are joined, the court must hear the proofs of the applicant and find the facts in accordance therewith.

**Decree.**

§ 1817. If the facts found sustain the petition, the court must render judgment authorizing the applicant to carry on in her own name and on her own account the business specified in the notice and petition.

**Oath, copy of order to be recorded.**

§ 1818. The sole trader must make and file with the clerk of the court an affidavit, in the following form:

"I, A. B., do in presence of Almighty God, solemnly swear that this application was made in good faith, for the purpose of enabling me to support myself (and any dependent, such as husband, parent, sister, child, or the like, naming them, if any), and not with any view to defraud, delay, or hinder any creditor or creditors of my husband; and that of the moneys so to be used by me in business, not more than five hundred dollars have come either directly or indirectly from my husband. So help me God."

A certified copy of the decree, with this oath indorsed thereon, must be recorded in the office of the recorder of the county where the business is to be carried on, in a book to be kept for such purpose.

**Rights and liabilities of sole traders.**

§ 1819. When the judgment is made and entered, and a copy thereof, with the affidavit provided for in section one thousand eight hundred and eighteen, duly recorded, the person therein named is entitled to carry on the business specified, in her own name, and the property, revenues, moneys, and credits so by her invested, and the profits thereof, belong exclusively to her, and are not liable for any debts of her husband, and she, thereafter, has all the privileges of, and is liable to all legal processes provided for debtors and creditors, and may sue and be sued alone without being joined with her husband; *provided, however*, that she shall not be at liberty to carry on said business in any other county than that named in the notice provided for in section one thousand eight hundred and twelve, until she has recorded in such other county a copy of said judgment and affidavit. [Amended, Code Amdts. 1875-76, p. 105.]

**Sole trader must maintain her children.**

§ 1820. A married woman who is adjudged a sole trader is responsible and liable for the maintenance of her minor children.

**Husband of sole trader not liable for debts.**

§ 1821. The husband of a sole trader is not liable for any debts contracted by her in the course of her sole trader's business, unless contracted upon his written consent.

**ESTATES OF MISSING PERSONS.**

**Trustees of the estates of missing persons.**

§ 1822. Whenever any resident of this state, who owns or is entitled to the possession of any real or personal property situate therein, is missing, or his whereabouts unknown, for ninety days, and a verified petition is presented to the superior court of the county of which he is a resident by his wife or any of his family or friends, representing that his whereabouts has been, for such time, and still is, unknown, and that his estate requires attention, supervision, and care of ownership, the court must order such petition to be filed, and appoint a day for its hearing, not less than ten days from the date of the order. The clerk of the court must thereupon publish, for at least ten days prior to the day so appointed, a notice in some newspaper published in the county, stating that such petition will be heard at the court room of the court at the time appointed for the hearing. The court may direct further notice of the application to be given in such manner and to such persons as

it may deem proper. At the time so fixed for such hearing, or at any subsequent time to which the hearing may be postponed, the court must hear the petition and the evidence offered in support of or in opposition thereto, and, if satisfied that the allegations thereof are true, and that such person remains missing, and his whereabouts unknown, must appoint some suitable person to take charge and possession of such estate, and manage and control it under the direction of the court. In appointing a trustee, the court must prefer the wife of the missing person (if any such there is), or her nominee, and, in the absence of a wife, some person, if such there is who is willing to act, entitled to participate in the distribution of the missing person's estate were he dead. [Enacted, Statutes 1907, p. 729.]

#### **Bonds to be given by trustees.**

§ 1822a. Every person appointed under the provisions of the preceding section must give bond in the amount and as provided for in section thirteen hundred and eighty-eight. [Enacted, Statutes 1907, p. 730.]

#### **Powers and duties of trustees.**

§ 1822b. The trustee must take possession of the real and personal estate in this state of such missing person, and collect and receive the rents, income, and proceeds thereof, collect all indebtedness owing to him, and pay the expenses thereof out of the trust funds, and pay such indebtedness of the missing person as may be authorized by the court. The court may direct the trustee to pay to the person or persons constituting the family of the missing person such sum or sums of money for family expenses and support from the income of the estate as it may, from time to time, determine. The trustee must from time to time, when directed by the court, account to and with it for all his acts as trustee, and the court may, at any time, upon good cause shown, remove any trustee, and appoint another in his place. [Enacted, Statutes 1907, p. 730.]

#### **Persons who can not testify.**

§ 1880. The following persons can not be witnesses:

1. Those who are of unsound mind at the time of their production for examination.
2. Children under ten years of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.
3. Parties or assignors of parties to an action or proceeding, or persons in whose behalf an action or proceeding is prosecuted, against an executor or administrator upon a claim, or demand against the estate of a deceased person, as to any matter or fact occurring before the death of such deceased person. [Amended, Code Amdts. 1880, p. 112.]



## PERSONS CAN NOT BE EXAMINED IN CERTAIN RELATIONS.

§ 1881. There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person can not be examined as a witness in the following cases:

1. A husband can not be examined for or against his wife without her consent; nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other; or in an action brought by husband or wife against another person for the alienation of the affections of either husband or wife or in an action for damages against another person for adultery committed by either husband or wife.

2. An attorney can not, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment; nor can an attorney's secretary, stenographer, or clerk be examined, without the consent of his employer, concerning any fact the knowledge of which has been acquired in such capacity.

3. A clergyman or priest can not, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

4. A licensed physician or surgeon can not, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient, which was necessary to enable him to prescribe or act for the patient; *provided, however*, that after the death of the patient, the executor of his will, or the administrator of his estate, or the surviving spouse of the deceased, or, if there be no surviving spouse, the children of the deceased personally, or, if minors, by their guardian, may give such consent, in any action or proceeding brought to recover damages on account of the death of the patient; *provided, further*, that where any person brings an action to recover damages for personal injuries, such action shall be deemed to constitute a consent by the person bringing such action that any physician who has prescribed for or treated said person and whose testimony is material in said action shall testify; *and provided, further*, that the bringing of an action, to recover for the death of a patient, by the executor of his will, or by the administrator of his estate, or by the surviving spouse of the deceased, or if there be no surviving spouse, by the children personally, or if

minors, by their guardian, shall constitute a consent by such executor, administrator, surviving spouse, or children or guardian, to the testimony of any physician who attended said deceased.

5. A public officer can not be examined as to communications made to him in official confidence, when the public interest would suffer by the disclosure. [Amended, Statutes 1917, p. 954.]

#### **Specification of conclusive presumptions.**

§ 1962. The following presumptions, and no others, are deemed conclusive:

1. A malicious and guilty intent, from the deliberate commission of an unlawful act, for the purpose of injuring another;

2. The truth of the facts recited, from the recital in a written instrument between the parties thereto, or their successors in interest by a subsequent title; but this rule does not apply to the recital of a consideration;

3. Whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he can not, in any litigation arising out of such declaration, act, or omission, be permitted to falsify it;

4. A tenant is not permitted to deny the title of his landlord at the time of the commencement of the relation;

5. The issue of a wife cohabiting with her husband, who is not impotent, is indisputably presumed to be legitimate;

6. The judgment or order of a court, when declared by this code to be conclusive; but such judgment or order must be alleged in the pleadings if there be an opportunity to do so; if there be no such opportunity, the judgment or order may be used as evidence.

7. Any other presumption which, by statute, is expressly made conclusive.

#### **Agreements not in writing, when invalid.**

§ 1973. In the following cases the agreement is invalid, unless the same or some note or memorandum thereof be in writing, and subscribed by the party charged, or by his agent. Evidence, therefore, of the agreement, can not be received without the writing or secondary evidence of its contents:

1. An agreement that by its terms is not to be performed within a year from the making thereof;

2. A special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in section twenty-seven hundred and ninety-four of the Civil Code;

3. An agreement made upon consideration of marriage other than a mutual promise to marry;

4. An agreement for the sale of goods, chattels, or things in action, at a price not less than two hundred dollars, unless the buyer

accepts or receives part of such goods and chattels or the evidences, or some of them, of such things in action, or pays at the time some part of the purchase money; but when a sale is made at auction, an entry by the auctioneer in his sale-book, at the time of the sale, of the kind of property sold, the terms of the sale, the price, and the names of the purchaser and person on whose account the sale is made, is a sufficient memorandum;

5. An agreement for the leasing for a longer period than one year, or for the sale of real property, or of an interest therein; and such agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent is in writing, subscribed by the party sought to be charged;

6. An agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or a commission;

7. An agreement which by its terms is not to be performed during the lifetime of the promisor, or an agreement to devise or bequeath any property, or to make any provision for any person by will. [Amended, Statutes 1907, p. 563.]

**In action for divorce, admission not sufficient.**

§ 2079. In an action for divorce on the ground of adultery, a confession of adultery, whether in or out of the pleadings, is not of itself sufficient to justify a judgment of divorce.

## PENAL CODE.

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### **Persons who are capable of committing crimes.**

§ 26. All persons are capable of committing crimes except those belonging to the following classes:

1. Children under the age of fourteen, in the absence of clear proof that at the time of committing the act charged against them, they knew its wrongfulness;

2. Idiots;

3. Lunatics and insane persons;

4. Persons who committed the act or made the omission charged under an ignorance or mistake of fact, which disproves any criminal intent;

5. Persons who committed the act charged without being conscious thereof;

6. Persons who committed the act or made the omission charged through misfortune or by accident, when it appears that there was no evil design, intention, or culpable negligence;

7. Married women (except for felonies) acting under the threats, command, or coercion of their husbands;

8. Persons (unless the crime be punishable with death) who committed the act or made the omission charged under threats or menaces sufficient to show that they had reasonable cause to, and did believe their lives would be endangered if they refused. [Amended, Code Amdts. 1873-74, p. 422.]

### **Who are principals in crime.**

§ 31. All persons concerned in the commission of a crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the offense, or aid and abet in its commission, or, not being present, have advised and encouraged its commission, and all persons counseling, advising, or encouraging children under the age of fourteen years, lunatics or idiots, to commit any crime, or who, by fraud, contrivance, or force, occasion the drunkenness of another for the purpose of causing him to commit any crime, or who, by threats, menaces, command, or coercion, compel another to commit any crime, are principals in any crime so committed.

### **Fraudulent pretenses relative to birth of infant.**

§ 156. Every person who fraudulently produces an infant, falsely pretending it to have been born of any parent whose child would be entitled to inherit any real-estate, or to receive a share of any personal estate, with intent to intercept the inheritance of any such real estate, or the distribution of any such personal estate from any person lawfully entitled thereto, is punishable by imprisonment in the state prison not exceeding ten years.

NOTE.—The Penal Code was enacted February 14, 1872. Sections amended or enacted since that date are followed by date of amendment or enactment.

### **Substituting one child for another.**

§ 157. Every person to whom an infant has been confided for nursing, education, or any other purpose, who, with intent to deceive any parent or guardian of such child, substitutes or produces to such parent or guardian another child in the place of the one so confided, is punishable by imprisonment in the state prison not exceeding seven years.

### **Advertising to procure divorce.**

§ 159a. Whoever advertises, prints, publishes, distributes, or circulates, or causes to be advertised, printed, published, distributed, or circulated, any circular, pamphlet, card, handbill, advertisement, printed paper, book, newspaper, or notice of any kind, offering to procure or obtain, or to aid in procuring or obtaining, any divorce, or the severance, dissolution, or annulment of any marriage, or offering to engage or appear or act as attorney, counsel, or referee in any suit for alimony or divorce, or the severance, dissolution, or annulment of any marriage, either in this state or elsewhere, is guilty of a misdemeanor. This section does not apply to the printing or publishing of any notice or advertisement required or authorized by any law of this state. [Amended, Statutes, 1905, p. 649.]

### **Selling intoxicating liquors near state buildings.**

§ 172. 1. Every person who, within half a mile of the land belonging to this state upon which any state prison, or within nineteen hundred feet of the land belonging to this state upon which any reformatory, is situated, or within one mile of the grounds belonging to the University of California, at Berkeley, or within one and one-half miles of the exterior limits of the land on which is located the Veterans' Home at Yountville, Napa county, California, or within three miles of the university farm at Davis, or within one and one-half miles of the lands occupied by any home, retreat, or asylum for ex-soldiers, sailors, and marines of the army and navy of the United States, established or to be established by this state, or by the United States within this state, or within the state capitol, or within the limits of the grounds adjacent and belonging thereto, sells, gives away, or exposes for sale, any spirituous, vinous or alcoholic liquors, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, or by imprisonment for not less than fifty days or by both such fine and imprisonment, in the discretion of the court.

2. The possession by a person, within the distances mentioned in paragraph one of this section of any state prison, reformatory, grounds belonging to the University of California at Berkeley, university farm at Davis, or of the land on which is located the Veterans' Home at Yountville, Napa county, California, or any home, retreat or asylum for ex-soldiers or sailors, and marines of the army and navy of the United States, within the state capitol, or within the grounds adjacent and belonging thereto, of a license for the sale of spirituous, vinous or malt liquors issued under and

by the authority of the government of the United States shall, in any prosecution under paragraph one of this section, be deemed to be *prima facie* evidence of the violation of the provisions of paragraph one of this section. [Amended, Statutes 1915, p. 1451.]

#### **Selling intoxicating liquors near university.**

§ 172a. Every person who, upon or within one and one-half miles of the university grounds or campus, upon which are located the principal administrative offices of any university having an enrollment of more than one thousand students, more than five hundred of whom reside or lodge upon such university grounds or campus, sells, gives away, or exposes for sale, any vinous or alcoholic liquors, is guilty of a misdemeanor; *provided, however*, that the provisions of this act shall not apply to nor prohibit the sale of any of said liquors by any regularly licensed pharmacist who shall maintain a fixed place of business in said territory, upon the written prescription of a physician regularly licensed to practice medicine under the laws of the State of California, when such prescription is dated by the physician issuing it, contains the name of the person for whom the prescription is written, and is filled for such person only and within forty-eight hours of its date; *provided, further*, that the provisions of this act shall not apply to nor prohibit the sale of any of said liquors for chemical or mechanical purposes. [Enacted, Statutes 1909, p. 780.]

#### **Infringement of personal liberty.**

§ 181. Every person who holds, or attempts to hold, any person in involuntary servitude, or assumes, or attempts to assume, rights of ownership over any person, or who sells, or attempts to sell, any person to another, or receives money or anything of value, in consideration of placing any person in the custody, or under the power or control of another, or who buys or attempts to buy, any person, or pays money, or delivers anything of value, to another, in consideration of having any person placed in his custody, or under his power or control, or who knowingly aids or assists in any manner any one thus offending, is punishable by imprisonment in the state prison not less than one nor more than ten years. [Enacted, Statutes 1901, p. 330.]

#### **Degrees of murder.**

§ 189. All murder which is perpetrated by means of poison, or lying in wait, torture, or by any other kind of wilful, deliberate, and premeditated killing, or which is committed in the perpetration or attempt to perpetrate arson, rape, robbery, burglary, or mayhem, is murder of the first degree; and all other kinds of murders are of the second degree. [Amended, Code Amdts. 1873-74, p. 427.]

### **Punishment of murder.**

§ 190. Every person guilty of murder in the first degree, shall suffer death or confinement in the state prison for life, at the discretion of the jury trying the same; or upon a plea of guilty, the court shall determine the same; and every person guilty of murder in the second degree, is punishable by imprisonment in the state prison not less than ten years. [Amended, Code Amdts. 1873-74, p. 457.]

### **Petty treason abolished.**

§ 191. The rules of the common law, distinguishing the killing of a master by his servant, and of a husband by his wife, as petit treason, are abolished, and these offenses are homicides, punishable in the manner prescribed by this chapter.

### **Excusable homicide.**

§ 195. Homicide is excusable in the following cases:

1. When committed by accident and misfortune, in lawfully correcting a child or servant, or in doing any other lawful act by lawful means, with usual and ordinary caution, and without any unlawful intent.
2. When committed by accident and misfortune, in the heat of passion, upon any sudden and sufficient provocation, or upon a sudden combat, when no undue advantage is taken, nor any dangerous weapon used, and when the killing is not done in a cruel or unusual manner.

### **Justifiable homicide.**

§ 197. Homicide is also justifiable when committed by any person in either of the following cases:

1. When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; or,
2. When committed in defense of habitation, property, or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a violent, riotous, or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein; or,
3. When committed in the lawful defense of such person, or of a wife or husband, parent, child, master, mistress, or servant of such person, when there is reasonable ground to apprehend a design to commit a felony, or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mortal combat must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or,
4. When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

### **Justifiable and excusable homicide not punishable.**

§ 199. The homicide appearing to be justifiable or excusable, the person indicted must, upon his trial, be fully acquitted and discharged.

### **Kidnaping defined.**

§ 207. Every person who forcibly steals, takes, or arrests any person in this state, and carries him into another country, state, or county, or into another part of the same county, or who forcibly takes or arrests any person, with a design to take him out of this state, without having established a claim, according to the laws of the United States, or of this state, or who hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any person to go out of this state, or to be taken or removed therefrom, for the purpose and with the intent to sell such person into slavery or involuntary servitude, or otherwise to employ him for his own use, or to the use of another, without the free will and consent of such persuaded person; and every person who, being out of this state, abducts or takes by force or fraud any person contrary to the law of the place where such act is committed, and brings, sends, or conveys such person within the limits of this state, and is afterwards found within the limits thereof, is guilty of kidnaping. [Amended, Statutes 1905, p. 653.]

### **Punishment for kidnaping.**

§ 208. Kidnaping is punishable by imprisonment in the state prison not less than one nor more than ten years.

### **Kidnaping—Penalty.**

§ 209. Every person who maliciously, forcibly, or fraudulently takes or entices away any person with intent to restrain such person and thereby to commit extortion or robbery, or exact from the relatives or friends of such person any money or valuable thing, is guilty of a felony, and shall be punished therefor by imprisonment in the state's prison for life, or any number of years not less than ten. [Enacted, Statutes 1901, p. 98.]

### **Assault with intent to commit rape.**

§ 220. Every person who assaults another with intent to commit rape, the infamous crime against nature, mayhem, robbery, or grand larceny, is punishable by imprisonment in the state prison, not less than one nor more than fourteen years.

### **Administering stupefying drugs.**

§ 222. Every person guilty of administering to another any chloroform, ether, laudanum, or other narcotic, anæsthetic, or intoxicating agent, with intent thereby to enable or assist himself or any other person to commit a felony, is guilty of felony.



### **Assault with caustic chemicals.**

§ 244. Every person who wilfully and maliciously places or throws, or causes to be placed or thrown, upon the person of another, any vitriol, corrosive acid, or caustic chemical of any nature, with the intent to injure the flesh or disfigure the body of such person, is punishable by imprisonment in the state prison not less than one nor more than fourteen years.

## **RAPE, ABDUCTION, CARNAL ABUSE OF CHILDREN, AND SEDUCTION.**

### **Rape defined.**

§ 261. Rape is an act of sexual intercourse, accomplished with a female not the wife of the perpetrator, under either of the following circumstances:

1. Where the female is under the age of eighteen years;
2. Where she is incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent;
3. Where she resists, but her resistance is overcome by force or violence;
4. Where she is prevented from resisting by threats of great and immediate bodily harm, accompanied by apparent power of execution, or by any intoxicating, narcotic, or anæsthetic, substance, administered by or with the privy of the accused;
5. Where she is at the time unconscious of the nature of the act, and this is known to the accused;
6. Where she submits under the belief that the person committing the act is her husband, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce such belief. [Amended, Statutes 1913, p. 212.]

### **When physical ability must be proved.**

§ 262. No conviction for rape can be had against one who was under the age of fourteen years at the time of the act alleged, unless his physical ability to accomplish penetration is proved as an independent fact, and beyond a reasonable doubt.

### **Penetration sufficient.**

§ 263. The essential guilt of rape consists in the outrage to the person and feelings of the female. Any sexual penetration, however slight, is sufficient to complete the crime.

### **Punishment for rape.**

§ 264. Rape is punishable by imprisonment in the state prison not more than fifty years, except where the offense is, under subdivision one of section two hundred sixty-one of the Penal Code and the female is over the age of sixteen years and under the age of

eighteen years in which case the punishment shall be by imprisonment in the county jail for not more than one year or in the state prison for not more than fifty years, and in such case the jury shall determine by their verdict whether the punishment shall be by imprisonment in the county jail or in the state prison. [Amended, Statutes 1913, p. 213.]

#### **Abduction of women.**

§ 265. Every person who takes any woman unlawfully, against her will, and by force, menace, or duress, compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the state prison not less than two nor more than fourteen years.

#### **Seduction for purposes of prostitution.**

§ 266. Every person who inveigles or entices any unmarried female, of previous chaste character, under the age of eighteen years, into any house of ill-fame or of assignation, or elsewhere, for the purpose of prostitution; or to have illicit carnal connection with any man; and every person who aids or assists in such inveiglement or enticement; and every person who, by any false pretences, false representation, or other fraudulent means, procures any female to have illicit carnal connection with any man, is punishable by imprisonment in the state prison not exceeding five years, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment. [Amended, Code Amdts. 1873-74, p. 429.]

#### **Taking female for purpose of prostitution.**

§ 266a. Every person who, within this state, takes any female person against her will and without her consent, or with her consent procured by fraudulent inducement or misrepresentation, for the purpose of prostitution, is punishable by imprisonment in the state prison not exceeding five years, and a fine not exceeding one thousand dollars. [Enacted, Statutes 1905, p. 655.]

#### **Taking female by force to live in illicit relation.**

§ 266b. Every person who takes any female person unlawfully, and against her will, and by force, menace, or duress, compels her to live with him in an illicit relation, against her consent, or to so live with any other person, is punishable by imprisonment in the state prison not less than two nor more than four years. [Enacted, Statutes 1905, p. 655.]

#### **Bringing Chinese or Japanese women for purpose of selling.**

§ 266c. Every person bringing to, or landing within this state, any female person born in the empire of China or the empire of Japan, or the islands adjacent thereto, with intent to place her in

charge or custody of any other person, and against her will to compel her to reside with him, or for the purpose of selling her to any person whomsoever, is punishable by a fine of not less than one nor more than five thousand dollars, or by imprisonment in the county jail not less than six nor more than twelve months. [Enacted, Statutes 1905, p. 656.]

**Placing female in custody for purpose of cohabitation.**

§ 266d. Any person who receives any money or other valuable thing for or on account of his placing in custody any female for the purpose of causing her to cohabit with any male to whom she is not married, is guilty of a felony. [Enacted, Statutes 1905, p. 656.]

**Paying for female for purpose of prostitution.**

§ 266e. Every person who purchases, or pays any money or other valuable thing for, any female person for the purpose of prostitution, or for the purpose of placing her, for immoral purposes, in any house or place against her will, is guilty of a felony. [Enacted, Statutes 1905, p. 656.]

**Selling female for immoral purposes.**

§ 266f. Every person who sells any female person or receives any money or other valuable thing for or on account of his placing in custody, for immoral purposes, any female person, whether with or without her consent, is guilty of a felony. [Enacted, Statutes 1905, p. 656.]

**Placing one's wife in house of prostitution.**

§ 266g. Every man who, by force, intimidation, threats, persuasion, promises, or any other means, places or leaves, or procures any other person or persons to place or leave, his wife in a house of prostitution, or connives at or consents to, or permits, the placing or leaving of his wife in a house of prostitution, or allows or permits her to remain therein, is guilty of a felony and punishable by imprisonment in the state prison for not less than three nor more than ten years; and in all prosecutions under this section a wife is a competent witness against her husband. [Enacted, Statutes 1905, p. 656.]

**Abduction.**

§ 267. Every person who takes away any female under the age of eighteen years from her father, mother, guardian, or other person having the legal charge of her person, without their consent, for the purpose of prostitution, is punishable by imprisonment in the state prison not exceeding five years, and a fine not exceeding one thousand dollars.

**Seduction.**

§ 268. Every person who, under promise of marriage, seduces and has sexual intercourse with an unmarried female of previous chaste character, is punishable by imprisonment in the state prison for not more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment. [Enacted, Statutes 1889, p. 12.]

**When intermarriage is bar to prosecution.**

§ 269. The intermarriage of the parties subsequent to the commission of the offense is a bar to a prosecution for a violation of the last section; *provided*, such marriage take place prior to the finding of an indictment or the filing of an information charging such offense. [Enacted, Statutes 1889, p. 12.]

**Adultery.**

§ 269a. Every person who lives in a state of cohabitation and adultery is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year, or by both. [Amended, Statutes 1911, p. 426.]

**Adultery of married persons.**

§ 269b. If two persons, each being married to another, live together in a state of cohabitation and adultery, each is guilty of a felony, and punishable by imprisonment in the state prison not exceeding five years. A recorded certificate of marriage or a certified copy thereof, there being no decree of divorce, proves the marriage of a person for the purpose of this action. [Amended, Statutes 1911, p. 426.]

**ABANDONMENT AND NEGLECT OF CHILDREN.****Omitting to provide child with necessities.**

§ 270. A parent of either a legitimate or illegitimate minor child who wilfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, or medical attendance for his child, is punishable by imprisonment in the state prison, or in the county jail, not exceeding two years, or by fine not exceeding one thousand dollars, or by both. The superior court, sitting as a juvenile court, may exercise original jurisdiction over all such offenses. [Amended, Statutes 1917, p. 252.]

**Non-support of wife.**

§ 270a. Every husband having sufficient ability to provide for his wife's support, or who is able to earn the means of such wife's support, who wilfully abandons and leaves his wife in a destitute condition, or who refuses or neglects to provide such wife with necessary

food, clothing, shelter or medical attendance, unless by her misconduct he was justified in abandoning her, is punishable by imprisonment in the state prison, or in the county jail, not exceeding two years, or by fine not exceeding one thousand dollars, or by both. [Amended, Statutes 1909, p. 258.]

**Surety for support.**

§ 270b. After arrest and before plea or trial, or after conviction or plea of guilty and before sentence under either section 270 or 270a of this code, if the defendant shall appear before the court and enter into an undertaking with sufficient sureties to the people of the State of California in such penal sum as the court may fix, to be approved by the court, and conditioned that the defendant will pay to the person having custody of such child or to such wife, such sum per month as may be fixed by the court in order to thereby provide said minor child or said wife, as the case may be, with necessary food, clothing, shelter, or medical attendance, then the court may suspend proceedings or sentence therein; and said undertaking is valid and binding for six months; and upon the failure of defendant to comply with said undertaking, he may be ordered to appear before the court and show cause why further proceedings should not be had in said action or why sentence should not be imposed, whereupon the court may proceed with said action, or pass sentence, or for good cause shown may modify the order and take a new undertaking and further suspend proceedings or sentence for a like period. [Amended, Statutes 1909, p. 259.]

**Failure of adult child to provide for parent.**

§ 270c. Every adult child, who having the ability so to do, fails to provide necessary food, clothing, shelter, or medical attendance for an indigent parent, is guilty of a misdemeanor. [Enacted, Statutes 1909, p. 166.]

**Fine may be paid to wife or child.**

§ 270d. In any case where there is a conviction and sentence under the provisions of either section 270 or section 270a, of this code should a fine be imposed such fine may be directed by the court to be paid in whole or in part to the wife of the defendant or guardian or custodian of the child or children of such defendant. [Enacted, Statutes 1911, p. 687.]

**Proof of marriage, etc.**

§ 270e. No other evidence shall be required to prove marriage of husband and wife, or that a person is the lawful father or mother of a child or children, than is or shall be required to prove such facts in a civil action. In all prosecutions under either section 270 or 270a of this code any existing provisions of law prohibiting the disclosure of confidential communications between husband and wife shall not

apply, and both husband and wife shall be competent to testify to any and all relevant matters, including the fact of marriage and the parentage of a child or children. Proof of the abandonment and non-support of a wife, or of the omission to furnish necessary food, clothing, shelter, or of medical attendance for a child or children is prima facie evidence that such abandonment and non-support or omission to furnish necessary food, clothing, shelter or medical attendance is wilful. [Enacted, Statutes 1911, p. 688.]

#### **Deserting child.**

§ 271. Every parent of any child under the age of fourteen years, and every person to whom any such child has been confided for nurture, or education, who deserts such child in any place whatever with intent wholly to abandon it, is punishable by imprisonment in the state prison or in the county jail not exceeding one year or by fine not exceeding five hundred dollars, or by both. [Amended, Statutes 1909, p. 297.]

#### **Penalty for abandonment.**

§ 271a. Every person who knowingly and wilfully abandons, or who, having ability so to do, fails or refuses to maintain his or her minor child under the age of fourteen years, or who falsely, knowing the same to be false, represents to any manager, officer or agent of any orphan asylum or charitable institution for the care of orphans, that any child for whose admission into such asylum or institution application has been made is an orphan, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding five hundred dollars, or by both. [Amended, Statutes 1909, p. 297.]

#### **Person selling, apprenticing, etc., children.**

§ 272. Any person, whether as parent, relative, guardian, employer, or otherwise, having the care, custody, or control of any child under the age of sixteen years, who exhibits, uses, or employs, or in any manner, or under any pretense, sells, apprentices, gives away, lets out, or disposes of any such child to any person, under any name, title, or pretense, for or in any business, exhibition, or vocation, injurious to the health or dangerous to the life or limb of such child, or in or for the vocation, occupation, service, or purpose of singing, playing on musical instruments, rope or wire walking, dancing, begging, or peddling, or as a gymnast, acrobat, contortionist, or rider, in any place whatsoever, or for or in any obscene, indecent or immoral purposes, exhibition, or practice whatsoever, or for or in any mendicant or wandering business whatsoever, or who causes, procures, or encourages such child to engage therein, is guilty of a misdemeanor, and punishable by a fine of not less than fifty nor more than two hundred and fifty dollars, or by imprisonment in the county jail for a term not exceeding six months, or by

both such fine and imprisonment. Nothing in this section contained applies to or affects the employment or use of any such child, as a singer or musician in any church, school, or academy, or the teaching or learning of the science or practice of music; or the employment of any child as a musician at any concert or other musical entertainment, on the written consent of the mayor of the city or president of the board of trustees of the city or town where such concert or entertainment takes place. [Amended, Statutes 1905, p. 759.]

**Person receiving, hiring, etc., children.**

§ 273. Every person who takes, receives, hires, employs, uses, exhibits, or has in custody, any child under the age, and for any of the purposes mentioned in the preceding section, is guilty of a like offense, and punishable by a like punishment as therein provided. [Enacted, Statutes 1905, p. 759.]

**Unjustifiable punishment of child.**

§ 273a. Any person who wilfully causes or permits any child to suffer, or who inflicts thereon unjustifiable physical pain or mental suffering, and whoever, having the care or custody of any child, causes or permits the life or limb of such child to be endangered, or the health of such child to be injured, and any person who wilfully causes or permits such child to be placed in such situation that its life or limb may be endangered, or its health likely to be injured, is guilty of a misdemeanor. [Enacted, Statutes 1905, p. 759.]

**Child not to be confined.**

§ 273b. No child under the age of sixteen years must be placed in any prison, or place of confinement, or in any court room, or in any vehicle for transportation to any place, in company with adults charged with or convicted of crime, except in the presence of a proper official. [Enacted, Statutes 1905, p. 760.]

**Fines, how appropriated.**

§ 273c. All fines, penalties, and forfeitures imposed and collected under the provisions of the five preceding sections, or under the provisions of any law relating to, or affecting children, in every case where the prosecution is instituted or conducted by a society incorporated under the laws of this state for the prevention of cruelty to children, inure to such society in aid of the purposes for which it is incorporated. [Enacted, Statutes 1905, p. 760.]

**Court may commit child to charitable institution.**

§ 273d. When, upon examination before a court or magistrate, it appears that any child under the age of sixteen years has been found begging, whether actually begging or under the pretext of selling anything, or wandering and not having any settled place of abode, or proper guardianship, or visible means of subsistence; or destitute,

or frequenting the company of reputed thieves, or prostitutes or houses of prostitution or assignation, dance houses, concert saloons, theaters, or places where spirituous liquors are sold; or engaged in any business, exhibition, or vocation mentioned in section two hundred and seventy-two; or in the custody of any person convicted of a criminal assault upon it; the court or magistrate may, when it deems it expedient for the welfare of such child, commit it to an orphan asylum, society for the prevention of cruelty to children, or other charitable institution, or make such other disposition thereof as now is or may hereafter be provided by law in cases of vagrant, truant, disorderly, pauper, or destitute children. [Enacted, Statutes 1905, p. 760.]

**Minor not to deliver messages, etc., to certain places.**

§ 273e. Every telephone, special delivery company or association, and every other corporation or person engaged in the delivery of packages, letters, notes, messages, or other matter, and every manager, superintendent, or other agent of such person, corporation, or association, who sends any minor in the employ or under the control of any such person, corporation, association, or agent, to the keeper of any house of prostitution, variety theater, or other place of questionable repute, or to any person connected with, or any inmate of such house, theater, or other place, or who permits such minor to enter such house, theater, or other place, is guilty of a misdemeanor [Enacted, Statutes 1905, p. 760.]

**Children not to be sent to immoral places.**

§ 273f. Any person, whether as parent, guardian, employer, or otherwise, and any firm or corporation, who as employer or otherwise, shall send, direct, or cause to be sent or directed to any saloon, gambling house, house of prostitution, or other immoral place, any minor under the age of eighteen, is guilty of a misdemeanor. [Enacted, Statutes 1907, p. 565.]

**Immoral practices in presence of children.**

§ 273g. Any person who in the present of any child indulges in any degrading, lewd, immoral or vicious habits or practices, or who is habitually drunk in the presence of a child in his care, custody or control, is guilty of a misdemeanor. [Enacted, Statutes 1907, p. 756.]

**Person convicted may be sentenced to work on roads.**

§ 273h. In all prosecutions under the provisions of either section 270 or section 270a, or section 270b, or section 271, or section 271a of this code where a conviction is had and sentence of imprisonment in the county jail is imposed, the court may direct that the person so convicted shall be compelled to work upon the public roads or



highways, or any other public work, in the county where such conviction is had, during the term of such sentence. And it shall be the duty of the board of supervisors of the county where such conviction and sentence are had, and where such work is performed by a person under sentence to the county jail, to allow and order the payment out of any fund available to the wife, or to the guardian, or to the custodian of a child or children, or to an organization, or to an individual appointed by the court as trustee, at the end of each calendar month, for the support of such wife, child or children, a sum not to exceed one and 50/100 dollars for each day's work of such person. [Enacted, Statutes 1911, p. 688.]

## **ABORTIONS.**

### **Administering drugs.**

§ 274. Every person who provides, supplies, or administers to any pregnant woman, or procures any such woman to take any medicine, drug, or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life, is punishable by imprisonment in the state prison not less than two nor more than five years.

### **Submitting to an attempt to produce miscarriage.**

§ 275. Every woman who solicits of any person any medicine, drug, or substance whatever, and takes the same, or who submits to any operation, or to the use of any means whatever, with intent thereby to procure a miscarriage, unless the same is necessary to preserve her life, is punishable by imprisonment in the state prison not less than one nor more than five years.

## **CHILD STEALING.**

§ 278. Every person who maliciously, forcibly, or fraudulently takes or entices away any minor child with intent to detain and conceal such child from its parent, guardian, or other person having the lawful charge of such child, is punishable by imprisonment in the state prison not exceeding twenty years. [Amended, Statutes 1901, p. 269.]

## **BIGAMY, INCEST, AND THE CRIME AGAINST NATURE.**

### **Bigamy defined.**

§ 281. Every person having a husband or wife living, who marries any other person, except in the cases specified in the next section, is guilty of bigamy.

**Exceptions.**

§ 282. The last section does not extend—

1. To any person by reason of any former marriage, whose husband or wife by such marriage has been absent for five successive years, without being known to such person within that time to be living; nor,

2. To any person by reason of any former marriage which has been pronounced void, annulled, or dissolved by the judgment of a competent court.

**Punishment of bigamy.**

§ 283. Bigamy is punishable by a fine not exceeding five thousand dollars and by imprisonment in the state prison not exceeding ten years. [Amended, Statutes 1905, p. 245.]

**Marrying the husband or wife of another.**

§ 284. Every person who knowingly and wilfully marries the husband or wife of another, in any case in which such husband or wife would be punishable under the provisions of this chapter, is punishable by fine not less than five thousand dollars, or by imprisonment in the state prison not exceeding ten years. [Amended, Statutes 1905, p. 245.]

**Incest.**

§ 285. Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who commit fornication or adultery with each other, are punishable by imprisonment in the state prison not exceeding ten years.

**Crime against nature.**

§ 286. Every person who is guilty of the infamous crime against nature, committed with mankind or with any animal, is punishable by imprisonment in the state prison not less than five years.

**Penetration sufficient.**

§ 287. Any sexual penetration, however slight, is sufficient to complete the crime against nature.

**Lewd conduct with child.**

§ 288. Any person who shall wilfully and lewdly commit any lewd or lascivious act other than the acts constituting other crimes provided for in part two of this code upon or with the body, or any part or member thereof, of a child under the age of fourteen years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be guilty of a felony and shall be imprisoned in the state prison not less than one year. [Enacted, Statutes 1901, p. 630.]

**Selling tobacco to minors.**

§ 308. Every person, firm or corporation which sells or gives or in any way furnishes to another person who is in fact under the age of eighteen years any tobacco, cigarettes or cigarette papers or any other preparation of tobacco is guilty of a misdemeanor and upon conviction thereof shall be punished for the first offense by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment for not more than sixty days; and for the second offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment for not more than ninety days; and for each subsequent offense by a fine of not less than one hundred dollars and not more than three hundred dollars, or by imprisonment for not less than ninety days nor more than six months, or by both such fine and imprisonment. Every person, firm or corporation which sells, or deals in tobacco or any preparation thereof shall, within ninety days after this act becomes effective, post conspicuously and keep so posted in his or their place of business a copy of this act, and any such person failing to do so shall upon conviction be punished by a fine of five dollars for the first offense, and twenty-five dollars for each succeeding violation of this provision, or by imprisonment for not more than thirty days. The secretary of state is hereby authorized to have printed sufficient copies of this act to enable him to furnish dealers in tobacco with copies thereof upon their request for the same. [Amended, Statutes 1911, p. 481.]

**Admitting minor to house of prostitution.**

§ 309. Any proprietor, keeper, manager, conductor, or person having the control of any house of prostitution, or any house or room resorted to for the purpose of prostitution, who shall admit or keep any minor of either sex therein, or any parent or guardian of any such minor who shall admit or keep such minor, or sanction, or connive at the admission or keeping thereof, into, or in any such house or room, shall be guilty of a misdemeanor. [Enacted, Code Amdts. 1880, p. 36.]

**INDECENT EXPOSURE, OBSCENE EXHIBITIONS, BOOKS AND PRINTS, AND BAWDY AND OTHER DISORDERLY HOUSES.****Indecent exposures, exhibitions, and pictures.**

§ 311. Every person who wilfully and lewdly, either:

1. Exposes his person or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or,

2. Procures, counsels, or assists any person so to expose himself, or to take part in any model artist exhibition, or to make any other exhibition of himself to public view or to the view of any number of persons, such as is offensive to decency, or is adapted to excite to lewd or vicious thoughts or acts; or,

3. Writes, composes, stereotypes, prints, publishes, sells, distributes, keeps for sale, or exhibits any obscene or indecent writing, paper, or book; or designs, copies, draws, engraves, paints, or otherwise prepares any obscene or indecent picture or print; or molds, cuts, casts, or otherwise makes any obscene or indecent figure; or,

4. Writes, composes, or publishes any notice or advertisement of any such writing, paper, book, picture, print, or figure; or,

5. Sings any lewd or obscene song, ballad, or other words, in any public place, or in any place where there are persons present to be annoyed thereby, is guilty of a misdemeanor. [Amended, Code Amdts. 1873-74, p. 429.]

#### **Seizure of indecent articles authorized.**

§ 312. Every person who is authorized or enjoined to arrest any person for a violation of subdivision three of the last section, is equally authorized and enjoined to seize any obscene or indecent writing, paper, book, picture, print, or figure found in possession or under the control of the person so arrested, and to deliver the same to the magistrate before whom the person so arrested is required to be taken.

#### **Determination of their character.**

§ 313. The magistrate to whom any obscene or indecent writing, paper, book, picture, print, or figure, is delivered, pursuant to the foregoing section, must, upon the examination of the accused, or, if the examination is delayed or prevented, without awaiting such examination, determine the character of such writing, paper, book, picture, print, or figure, and if he finds it to be obscene or indecent, he must deliver one copy to the district attorney of the county in which the accused is liable to indictment or trial, and must at once destroy all the other copies.

#### **Their destruction.**

§ 314. Upon the conviction of the accused, such district attorney must cause any writing, paper, book, picture, print, or figure, in respect whereof the accused stands convicted, and which remains in the possession or under the control of such district attorney, to be destroyed.

#### **Keeping or residing in house of ill fame.**

§ 315. Every person who keeps a house of ill fame in this state, resorted to for the purposes of prostitution or lewdness, or who wilfully resides in such house, is guilty of a misdemeanor; and in all prosecutions for keeping or resorting to such a house common repute may be received as competent evidence of the character of the house, the purpose for which it is kept or used, and the character of the women inhabiting or resorting to it. [Amended, Statutes 1905, p. 668.]

#### **Keeping disorderly houses.**

§ 316. Every person who keeps any disorderly house, or any house for the purpose of assignation or prostitution, or any house of public resort,

by which the peace, comfort, or decency of the immediate neighborhood is habitually disturbed or who keeps any inn in a disorderly manner; and every person who lets any apartment or tenement, knowing that it is to be used for the purpose of assignation or prostitution, is guilty of a misdemeanor. [Amended, Code Amdts. 1873-74, p. 430.]

**Advertisement to produce miscarriage unlawful.**

§ 317. Every person who wilfully writes, composes, or publish any notice or advertisement of any medicine, or means for producing or facilitating a miscarriage or abortion, or for the prevention of conception, or who offers his services by any notice, advertisement, or otherwise, to assist in the accomplishment of any such purpose, is guilty of a felony. [Enacted, Code Amdts. 1873-74, p. 430.]

**Prevailing upon any one to visit gambling houses, etc.**

§ 318. Whoever, through invitation or device, prevails upon any person to visit any room, building, or other place kept for the purpose of gambling, or prostitution, is guilty of a misdemeanor; and, upon conviction thereof, shall be confined in the county jail not exceeding six months, or fined not exceeding five hundred dollars, or be punished by both such fine and imprisonment. [Enacted, Code Amdts. 1880, p. 40.]

**Allowing minors to gamble in saloons.**

§ 336. Every owner or lessee, or keeper of any house used in whole, or in part, as a saloon or drinking place, who knowingly permits any person under twenty-one years of age to play at any game of chance therein, is guilty of a misdemeanor. [Enacted, Code Amdts. 1873-74, p. 461.]

**Hazing.**

§ 367b. Whosoever being a student, or being a person in attendance at any public, private, parochial, or military school, college, or other educational institution, conspires to haze or engages in hazing or commits any act that injures, degrades or disgraces, or tends to injure, degrade, or disgrace any fellow student or person attending such institution shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty nor more than five hundred dollars, or imprisoned in the county jail not more than six months, or both. [Enacted, Statutes 1907, p. 888.]

**Selling liquors to minor.**

§ 397b. Every person who sells, gives or delivers to any minor child, male or female, under the age of eighteen years, any intoxicating drink in any quantity whatsoever, or who, as proprietor or manager of any saloon or public house where intoxicating liquors are sold, permits any such minor child under the age of eighteen years, to visit said saloon or public house where intoxicating liquors are sold, shall be guilty of a mis-

demeanor, and shall, upon conviction thereof, be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for a period not exceeding one hundred and fifty days, or by both such fine and imprisonment; *provided*, that this section shall not apply to the parents of such children, or to guardians of their wards. [Enacted, Statutes 1905, p. 673.]

**Purchasing junk from minor.**

§ 501. Every person who purchases or receives in pledge, or by way of mortgage, from any person under the age of sixteen years, any junk, metal, mechanical tools, or implements, is guilty of a misdemeanor. [Enacted, Statutes 1871-72, p. 684.]

**Marrying under false personation.**

§ 528. Every person who falsely personates another, and in such assumed character marries or pretends to marry, or to sustain the marriage relation towards another, with or without the connivance of such other, is guilty of a felony.

**Married person selling land under false representation.**

§ 534. Every married person who falsely and fraudulently represents himself or herself as competent to sell or mortgage any real estate, to the validity of which sale or mortgage the assent or concurrence of his wife or her husband is necessary, and under such representations wilfully conveys or mortgages the same, is guilty of felony.

**Requiring ward to work more than eight hours.**

§ 651. Every person having a minor child under his control, either as a ward or an apprentice, who, except in vinicultural or horticultural pursuits, or in domestic or household occupations, requires such child to labor more than eight hours in any one day, is guilty of a misdemeanor.

**Abuse of school-teachers.**

§ 653*b*. Every parent, guardian, or other person who upbraids, insults, or abuses any teacher of the public schools, in the presence or hearing of a pupil thereof, is guilty of a misdemeanor. [Amended, Statutes 1905, p. 658.]

**Cruel punishment in prisons prohibited.**

§ 681. It shall be unlawful to use in the prisons or reformatory institutions of this state, any cruel or unusual punishments; and punishment by the use of the straight-jacket, gag, thumb-screw, shower bath, or the tricing-up of prisoners is hereby prohibited. [Enacted, Statutes 1913, p. 1010.]

**Kidnaping.**

§ 784. The jurisdiction of a criminal action:

1. For forcibly and without lawful authority seizing and confining another, or inveigling or kidnaping him, with intent, against his will, to cause him to be secretly confined or imprisoned in this state, or to be sent out of the state, or from one county to another, or to be sold as a slave, or in any way held to service;

2. For decoying, taking, or enticing away a child under the age of twelve years, with intent to detain and conceal it from its parent, guardian, or other person having the lawful charge of the child;

3. For inveigling, enticing, or taking away an unmarried female of previous chaste character, under the age of eighteen years, for the purpose of prostitution; or,

4. For taking away any female, under the age of sixteen years, from her father, mother, guardian, or other person having legal charge of her person, without their consent, either for the purpose of concubinage or prostitution;

Is in the county in which the offense is committed, or out of which the person upon whom the offense was committed has, in the commission of the offense, been taken, or in which an act was done by the defendant in instigating, procuring, promoting, or aiding in the commission of the offense, or in abetting the parties concerned therein. [Amended, Statutes 1905, p. 692.]

**Who may be present at examination before magistrate.**

§ 868. The magistrate must also, upon the request of the defendant, exclude from the examination every person except his clerk, the prosecutor and his counsel, the attorney general, the district attorney of the county, the defendant and his counsel, and the officer having the defendant in custody; *provided, however*, that when the prosecuting witness is a female she shall be entitled at all times to the attendance of a person of her own sex. [Amended, Statutes 1915, p. 772.]

**Security for appearance of witnesses.**

§ 879. When the magistrate or a judge of the court in which the action is pending is satisfied, by proof on oath, that there is reason to believe that any such witness will not appear and testify unless security is required, he may order the witness to enter into a written undertaking, with sureties, in such sum as he may deem proper, for his appearance as specified in the preceding section.

**For infants and married women.**

§ 880. Infants and married women, who are material witnesses against the defendant, may be required to procure sureties for their appearance, as provided in the last section.

### **Abortion and seduction.**

§ 1108. Upon a trial for procuring or attempting to procure an abortion, or aiding or assisting therein, or for inveigling, enticing, or taking away an unmarried female of previous chaste character, under the age of eighteen years, for the purpose of prostitution, or aiding or assisting therein, the defendant can not be convicted upon the testimony of the woman upon or with whom the offense was committed, unless she is corroborated by other evidence. [Amended, Statutes 1905, p. 696.]

### **Proceedings when female is supposed to be pregnant.**

§ 1225. If there is good reason to believe that a female against whom a judgment of death is rendered is pregnant, such proceedings must be had as are provided in section twelve hundred and twenty-one, except that instead of a jury, as therein provided, the court may summon three disinterested physicians, of good standing in their profession, to inquire into the supposed pregnancy, who shall, in the presence of the court, but with closed doors, if requested by the defendant, examine the defendant and hear any evidence that may be produced, and make a written finding and certificate of their conclusion, to be approved by the court and spread upon the minutes. The provisions of section twelve hundred and twenty-two apply to the proceedings upon such inquiry. [Amended, Statutes 1905, p. 699.]

### **If female is not pregnant.**

§ 1226. If it is found that the female is not pregnant, the warden must execute the judgment; if it is found that she is pregnant the warden must suspend the execution of the judgment, and transmit a certified copy of the finding and certificate to the governor. When the governor receives from the warden a certificate that the defendant is no longer pregnant, he must issue to the warden his warrant appointing a day for the execution of the judgment. [Amended, Statutes 1905, p. 699.]

### **When husband and wife are competent witnesses.**

§ 1322. Neither husband nor wife is a competent witness for or against the other in a criminal action or proceeding to which one or both are parties, except with the consent of both, or in case of criminal actions or proceedings for a crime committed by one against the person or property of the other, or in cases of criminal violence upon one by the other, or in cases of criminal actions or proceedings for bigamy, or adultery, or in cases of criminal actions or proceedings brought under the provisions of section two hundred and seventy and two hundred and seventy a of this code. [Amended, Statutes 1911, p. 270.]



**Classification of prisoners.**

§ 1599. Persons committed on criminal process and detained for trial, persons convicted and under sentence, and persons committed upon civil process, must not be kept or put in the same room, nor shall male and female prisoners (except husband and wife) be kept or put in the same room.

**Care of female prisoners in county jails.**

§ 1616. Whenever any female prisoner or prisoners are confined in any county jail in the state, and no regular jail matron has been appointed, there shall be designated by the sheriff some suitable woman who shall have immediate care of such female prisoner or prisoners, and who shall be paid out of the general fund of the county upon claims to be presented and allowed by the board of supervisors as other claims against the county. Such female prisoners shall be so kept that they can not see or be seen by, or converse with, any male prisoners confined in said jail, and it shall be unlawful for any male officer or jailer to search the person of any female prisoner, or to enter into the room or cell occupied by any female prisoner, except in the company of such matron or woman having the care of such female prisoner. [Amended, Statutes 1917, p. 240.]

## POLITICAL CODE.

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### **General right of the state over persons.**

§ 37. The state has the following rights over persons within its limits, to be exercised in the cases and in the manner provided by law :

1. To punish for crime ;
2. To imprison or confine for the protection of the public peace or health, or of individual life or safety ;
3. To imprison or confine for the purpose of enforcing civil remedies ;
4. To establish custody and restraint for the persons of idiots, lunatics, drunkards, and other persons of unsound mind ;
5. To establish custody and restraint of paupers for the purpose of their maintenance ;
6. To establish custody and restraint of minors unprovided for by natural guardians, for the purposes of their education, reformation and maintenance ;
7. To require services of persons, with or without compensation : In military duty ; in jury duty ; as witnesses ; as town or village officers ; in highway labor ; in maintaining the public peace ; in enforcing the service of process ; in protecting life and property from fire, pestilence, wreck and flood ; and in such other cases as are provided by statute.

### **Residence. Rules for determining.**

§ 52. Every person has, in law, a residence. In determining the place of residence the following rules are to be observed :

1. It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he returns in seasons of repose ;
  2. There can only be one residence ;
  3. A residence cannot be lost until another is gained ;
  4. The residence of the father, during his life, and after his death the residence of the mother, while she remains unmarried, is the residence of the unmarried minor child ;
  5. The residence of the husband is the residence of the wife ;
  6. The residence of an unmarried minor who has a parent living can not be changed by either his own act or that of his guardian ;
  7. The residence can be changed only by the union of act and intent.
- [Enacted, March 12, 1872.]

### **Qualifications of notaries public.**

§ 792. Every person appointed as notary public must, at the time of appointment be a citizen of the United States and of this state, and twenty-one years of age ; must have resided in the county for which the appointment is made for six months. Women having these qualifications may be appointed. [Amended, Statutes 1891, p. 29.]

### **Qualifications of electors.**

§ 1083. Every native citizen of the United States, every person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the state one year next preceding the election, and of the county in which he or she claims his or her vote ninety days, and in the election precinct thirty days, and who has conformed to the law governing the registration of voters, shall be a qualified elector at any and all elections held within the county, city and county, city, town, or district within which such elector resides. [Amended, Statutes 1913, p. 220.]

### **Qualifications for signing petitions.**

§ 1083a. Wherever, by the constitution or laws of this state, any initiative, referendum, recall or nominating petition or paper, or any petition or paper is required to be signed by qualified electors, only an elector who is a registered qualified elector at the time he signs such petition or paper shall be entitled to sign the same, and no elector shall be entitled to sign any such petition or paper on or after the first day of January of an even-numbered year unless he shall, on or since said first day of January, have made an affidavit of registration as required by law. Such signer shall at the time of so signing such petition or paper affix thereto the date of such signing. Wherever, by the constitution or laws of this state, the county clerk or registrar of voters is required to determine from the records of registration what number of qualified electors have signed such petition or paper, he shall determine that fact with respect to the purported signature of any person from the affidavit of registration, and records relating thereto, current and in effect at the date of such signing of such petition or paper. [Amended, Statutes 1915, p. 286.]

### **Qualifications for registration.**

§ 1096. The affiant making the affidavit of registration must be at least twenty-one years of age at the time of the next succeeding election; a citizen of the United States ninety days prior to such election; a resident of the state one year, of the county ninety days, and of the precinct thirty days next preceding such election and the affidavit must show such facts. It shall also show:

1. The name at length, including Christian or given name, and middle name, or initial, if any, said Christian or given name, if the name of a woman, to be preceded in all cases by the designation of Miss or Mrs., as the case may be.
2. The place of residence and post-office address with sufficient particularity to identify the same and determine therefrom the voting precinct of such affiant. If the elector be not the proprietor or head of the house, or the wife or husband of such proprietor, then it must show upon what floor thereof, and what room such elector occupies in such house.
3. The occupation of affiant

4. The height of affiant in feet and inches.
5. The country or state of nativity of affiant.
6. If foreign born, how citizenship was acquired; whether by citizenship of father, by provisions of a treaty or act of congress, by order of a court of naturalization, by marriage to a citizen, by naturalization of a parent or husband, or otherwise. The date or year when, and the place or state where affiant became a citizen shall be shown, except in the case of citizenship acquired by citizenship or naturalization of parents, by treaty, or by act of congress. When citizenship depends upon the citizenship or naturalization of parent or husband the name of such parent or husband shall appear.
7. The fact whether or not the elector desiring to be registered is able to read the constitution in the English language and to write his or her name, and whether or not the elector has any physical disability, by reason of which he or she can not mark the ballot; and if he or she can not mark the ballot by reason of physical disability, then the nature of such disability must be entered. The affiant, if able to write, shall sign such affidavit with his or her customary signature and the county clerk or registrar before whom such affidavit is made shall insert therein the date of such affidavit, which shall be the date of the jurat. The affiant may state in such affidavit the name of any political party or organization with which he intends to affiliate at the ensuing primary election, whether or not such party or organization is a party or organization qualified, at the time of such registration, to participate in such primary election according to the provisions of the direct primary law. [Amended, Statutes 1917, p. 1334.]

#### **Declaration of party affiliation.**

§ 1096a. At the time of registration and of transferring registration, in all places where the primary election law is in force, each elector shall declare the name of the political party with which he intends to affiliate at the ensuing primary election or elections, and the name of such political party shall be stated in the affidavit of registration and the index thereto. If the elector declines to state the fact, the fact of such declination shall likewise be stated and no person shall be entitled to vote the ticket of any political party at any primary election, by virtue of such registration, unless he has stated the name of the political party with which he intends to affiliate at the time of such registration. Nor shall he be permitted to vote on behalf of any party or for delegates to the convention of any party other than the party so designated in the registration.

In case any elector shall have declined to designate or shall have changed his political affiliation prior to the close of registration for primary elections he is entitled to have such change recorded prior to the close of said registration upon application to the county clerk or registrar of voters as hereinafter provided. In case any elector shall have declined to designate or shall have changed his political affiliations prior to the close of registration, he may appear in person before the county clerk or registrar

of voters, or any registration deputy of said county clerk or registrar of voters, and make affidavit substantially in the following form:

State of California, }  
County of ----- } ss.

-----, being duly sworn, deposes and says that he is registered on the great register of said county of ----- as a ----- (insert former party affiliation, or that he had declined to designate his party affiliation); that since the date of such registration he has changed his political views and in good faith declares his affiliation with ----- party.

Subscribed and sworn to before me, this ----- day of -----, 19-----.

The county clerk or registrar of voters shall take such affidavit without charge and shall file the same. [Enacted, Statutes 1917, p. 1335.]

#### **Affidavit of registration.**

§ 1097. Subdivision 1. No person shall be registered as an elector except by affidavit of registration. Such affidavit must be made before the county clerk or officer charged with the registration of voters, or their deputy or registration clerk and shall set forth all the facts required to be shown in sections one thousand ninety-six and one thousand ninety-seven of the Political Code. If an elector is absent from the county in which he or she claims residence, he or she may appear before any judge or clerk of any court of record, or notary public, or if in a foreign country, before any minister, consul, or vice consul of the United States, and may make and subscribe an affidavit as to his or her residence, specifying in what ward or precinct he or she claims residence; that he or she will be necessarily and unavoidably absent from said county, or city and county, on all the days allowed by law for general registration of electors, and setting forth in such affidavit each and all the matters required by sections one thousand ninety-six and one thousand ninety-seven of the Political Code of the State of California, and forward such affidavit, in duplicate, duly authenticated as above, by mail, enclosed in an envelope addressed to the county clerk of any county, or the registrar of voters in any county or city and county in which he or she claims to be an elector. Upon receipt of such affidavit by such clerk or registrar of voters within the time allowed by law for registration, the said affidavit shall be entered and bound by the clerk in the proper register in such precinct.

#### **Registering foreign born.**

Sub. 2. No foreign born person shall be registered unless:

(a) If a naturalized citizen upon the production of his or her certificate of naturalization or upon the production of a certificate of registration in the county of his or her last residence in the state, showing the date and place of naturalization, or upon his or her affidavit stating date and place of naturalization; *provided*, that any person registering for the first time in the state must produce his or her certificate of naturalization.

(b) If a citizen by virtue of his or her father being a citizen at the time of his or her birth, upon his or her sworn statement that his or her father was a citizen of the United States at the time of his or her birth and has been a resident thereof. Such statement need not be noted in full upon the affidavit of registration, but the words "I acquired citizenship by the citizenship of my father (naming him)" shall be sufficient.

(c) If a citizen by virtue of the naturalization of his or her parent, upon his or her affidavit that he or she became a citizen by such naturalization of his or her parent, naming such parent, that such naturalization took place during his or her minority and that he or she began to reside permanently in the United States while such minor child. Such statement need not be noted in full upon the affidavit, but the words "I acquired citizenship by my father's, or mother's, naturalization" as the case may be, naming him or her, shall be sufficient.

(d) If a citizen by virtue of marriage to a citizen, the date and place of such marriage shall be entered upon the affidavit of registration together with the name of the husband.

(e) If a citizen by virtue of the naturalization of her husband the date or year and place of such naturalization together with the name of the husband shall be entered.

\* \* \* \* \*

#### **Change of name by marriage.**

Sub. 4. Whenever any elector, between the time of her last registration and the time for the closing of registration for any given election in the same county or city and county, shall have lawfully changed her surname by a change or assumption of marital relation she shall be entitled to reregister under her new or changed name, upon an additional statement made at the time of such reregistration, giving the name under which she was so last registered in said county or city and county, and the residence given and contained in said last affidavit of registration, which additional statement shall be printed or written upon the margin of such affidavit of reregistration before the said affidavit is signed, and shall be deemed a part thereof. Upon such registration the last previous registration of such elector shall be canceled. And in case any elector shall reregister or transfer his or her registration from one precinct to another the former address or precinct shall be noted in the margin of such affidavit, and the former registration shall thereupon be canceled. \* \* \* [Amended, Statutes 1917, p. 1338.]

#### **Home teachers.**

§ 1615. Boards of school trustees or city boards of education of any school district, may employ teachers to be known as "home teachers," not exceeding one such home teacher for every five hundred units of average daily attendance in the common schools of said district as shown by the report of the county superintendent of schools for the next preceding school year. It shall be the duty of the home teacher to work in the homes of the pupils, instructing children and adults in matters relating to school

attendance and preparation therefor; also in sanitation, in the English language, in household duties such as purchase, preparation and use of food and of clothing and in the fundamental principles of the American system of government and the rights and duties of citizenship. The qualifications of such teachers shall be a regular kindergarten primary, elementary or secondary certificate to teach in the schools of California and special fitness to perform the duties of a home teacher; *provided*, that the salaries of such teachers shall be paid from the city or district special school funds. [Amended, Statutes 1917, p. 742.]

#### **Cigarette smoking.**

§ 1685. Continued wilful disobedience, open and persistent defiance of the authority of the teacher, habitual profanity or vulgarity, or smoking cigarettes or having cigarettes upon school premises, constitutes good cause for suspension or expulsion from school. [Amended, Statutes 1915, p. 770.]

### **ORPHAN AID.\***

#### **Appropriation for support of orphans.**

§ 2283. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, to each and every institution in this state conducted for the support and maintenance of needy minor orphans, half orphans, or abandoned children, and to each and every county, city and county, city, or town maintaining such orphans, half orphans, or abandoned children, or any or all of such classes of persons, aid as follows: For each whole orphan and abandoned child supported and maintained in any institution, not in excess of one hundred dollars per annum; and for each half orphan, not in excess of seventy-five dollars per annum; but each abandoned child must have been an inmate thereof for one year prior to receiving any support as provided in this chapter; *provided*, that in addition to the amount paid by the state for each half orphan maintained at home by its mother, the county, city and county, city or town may pay for the support of such half orphan an amount equal to the sum paid by the state; *and provided, further*, that in any case where any such half orphan is denied aid by the county, upon a petition setting forth the facts in full as to the necessity of aid, verified by five reputable citizens of the county, city and county, city, or town, the mother of such child shall have the right of appeal direct to the state board of control for aid for her child, and should her appeal be sustained by said board payment must be made for the child as above provided. [Amended, Statutes 1917, p. 560.]

\*Section 2283 of the Political Code was amended in 1913 to make legal the practice of permitting half orphans for whose support state aid was given to remain with their mothers. This section therefore has become known popularly as the "mothers' pension law."

### **Books to be kept by institutions.**

§ 2285. Every institution, county, city and county, city, or town entitled to aid under this chapter must keep the following records, which at all times must be open to the state board of control or to any person appointed by them to examine the same, or to any committee of the legislature, or to any clerk or officer thereof duly authorized to make such examination:

1. A record on which must be entered the date of admission, name, age, sex, and place of birth of each and every orphan, half orphan, and abandoned child, who is or may hereafter be received or admitted into such institution, or to county aid, and the date of discharge of any such child, when such discharge is made, the parentage, if known; the estate, if any, to which the child is heir, and the insurance, if any, on the father's or mother's life; so far as can be ascertained, the place where either parent or both died, the nativity of the parents, where married, the marriage certificate, where recorded, when they came to California, place of residence in California, and habits of sobriety.

2. A book entitled "monthly accounts." In it must be entered on the debtor side, all the moneys received from any and all sources segregated under the proper heads; on the credit side must be entered all disbursements made, specifying for what purposes made, and the amount entered in detail so disbursed, segregated under their proper heads.

3. A pay roll of the employees, and the amounts disbursed to each.

4. A book in which must be entered in detail the amounts paid for the specific support of every orphan, half orphan, or abandoned child and the date of such payments.

5. A transcript of the books and pay roll, verified under oath by the manager or person in charge of such institution entitled to or claiming state aid under this chapter, must, when demanded by the state board of control, be made and forwarded to the said board at the time of presenting claim for state aid.

6. A list of all the inmates other than employees or orphans supported wholly or in part by any institution presenting a claim for state aid under this chapter, must also be forwarded with such claim for aid. [Amended, Statutes 1917, p. 561.]

### **Board of control may inquire into institutions.**

§ 2286. The state board of control is authorized, in behalf of the state, at any time to inquire, either in person or by authorized agent, into the management of any such institution; and any institution refusing, upon due demand, to permit such inquiry or to comply with regulations established by said board for the proper maintenance and care of children receiving state aid must not thereafter receive any aid under this chapter until it has complied with all requirements. To carry out the provisions of this act, the state board of control may appoint a chief children's agent and three children's agents who shall, under the rules of said board, visit the homes and the institutions in which are children to whom state aid is being given or for whom aid is being asked, to obtain such information as the board may need in carrying out the provisions of this chapter. Such



chief agent shall receive necessary traveling expenses and a salary of two hundred twenty-five dollars per month. Such three other agents shall receive their necessary traveling expenses and a salary of one hundred seventy-five dollars per month, which salary shall be paid in the same manner and at the same time as the salaries of other state officers. All expenses incurred in visiting said asylums and homes, when there are not other available funds, may be audited and allowed by the state board of control out of the appropriation for support of orphans, half orphans and abandoned children. In addition an advisory committee of three persons serving without pay or expense to the state may be appointed by the board of control, to act in any county in conjunction with the children's agents. [Amended, Statutes 1917, p. 562.]

#### **Facts contained in claims.**

§ 2287. Every claim for aid under this chapter must be presented to and audited and allowed by the state board of control. Such claim must contain:

1. The name and location of the institution making the claim, or the name of the county.

2. The name of the person or persons having charge or control of the institution or of the child.

3. The number of orphans, half orphans, or abandoned children therein, in the case of an institution.

4. The date of admission and age of each child.

5. The amount, if any, that the institution is receiving for the specific support of any orphan, half orphan, or abandoned child therein. Such claim, and the statements therein contained, must be verified by the person or persons, or some of them, in charge of such institution, or in the case of counties, by the county officers in charge of the distribution of aid, and the state board of control may, in its discretion, require the production of the books of such institution or county in support of such claim. [Amended, Statutes 1913, p. 631.]

#### **Payment of damages.**

§ 2288. If such claim is audited and allowed, in whole or in part, by said board, it is the duty of the controller to draw his warrant for the amount allowed in favor of such institutions, and it is the duty of the treasurer to pay the same on presentation. No money appropriated by the state to any institution claiming aid under this chapter, must be expended either in improvements or in the erection of new buildings by such institutions. [Enacted, Statutes 1907, p. 910.]

#### **Institution and orphans defined.**

§ 2289. In order that the provisions of this chapter shall not be abused, it is hereby declared:

1. That no institution which has less than twenty inmates of either or all of the classes mentioned in section two thousand two hundred eighty-three, must be deemed an institution for the support and maintenance of

minor orphans, half orphans, or abandoned children, within the intent and meaning of this chapter.

2. That no child over the age of fifteen years shall be deemed a minor orphan, half orphan, or abandoned child, within the intent and meaning of this chapter.

3. That no child for whose specific support there is paid to any such institution the sum of ten dollars or more per month shall be deemed a minor orphan, half orphan, or abandoned child within the intent and meaning of this chapter.

4. That no child maintained in an institution for whom a bona fide offer of a proper home has been made shall be considered eligible for further state aid; *it is further provided, however*, that no institution shall be required to surrender a child to any person of religious faith different from that of the child or the parents of the child.

That a child who has not resided in this state for a period of at least two years prior to the application for aid shall not be eligible to receive state aid unless such child is born in this state. [Amended, Statutes 1917, p. 562.]

#### **Foundling asylums.**

§ 2290. The provisions herein made for the support of orphans, half orphans, and abandoned children, shall be held to include foundlings, and other dependent illegitimate infants who may have been or shall become dependent upon any regularly established foundling asylum, without regard to the time in which such infants have been dependent upon such institutions; and the relief herein provided shall be given for any fraction of a year, pro rata; *provided, also*, that the limitation of twenty inmates, mentioned in section twenty-two hundred and eighty-nine, shall, in relation to said foundling asylum, be construed to mean not less than twenty admissions in the course of each year; *and, provided, further*, that for each abandoned or dependent illegitimate infant who now is or shall become dependent upon such foundling asylum, there shall be paid by the state the sum of twelve dollars and fifty cents per month from the time it becomes dependent upon such institution until such infant's decease, or until it become adopted, or reach the age of eighteen months, after which age such asylum shall receive the same sum for such infants as allowed for full orphans. [Enacted, Statutes 1907, p. 911.]

#### **Registry of marriages.**

§ 3076. All persons who perform the marriage ceremony in this state shall within three days after the ceremony file with the county recorder a certificate of registry of the marriage performed by them in such form as may be prescribed by the state registrar which shall contain among other matters as near as can be ascertained, the place and date of marriage, sex, race, color, age, name and surname, birthplace, residence of the parties married, number of marriage and condition of each, whether single, widowed, or divorced, the occupation of the parties, maiden name of the

female, if previously married, the names and birthplace of the parents of each and the maiden name of the mother of each. [Amended, Statutes 1905, p. 104.]

### **Registry of births.**

§ 3077. Physicians, midwives, nurses and other persons assisting at a birth shall return in writing within five days thereafter to the county recorder of the county where such birth takes place in such form as may be prescribed by the state registrar a certificate of registry of such birth which shall contain among other matters, the time and place of such birth, name, sex, race and color of the child, the name, residence, age, birthplace and occupation of the parents and the maiden name of the mother, and whether born in or out of wedlock, and such other information as may be required by the state registrar; *provided, however*, that in cities having a freeholders charter the health officer shall act as local registrar and perform all the duties thereof. In case the child is not named the recorder or registrar of such locality shall deliver to such parent, next of kin, physician, midwife or other person furnishing such certificate of birth a supplementary blank for report of given name, which shall be filled out and returned as soon as the child shall be named. In case there shall be no physician, midwife, or nurse attending at such birth, then, it shall be the duty of the parents of any child born in this state (and if there be no parent alive, then the next of kin of said child) within ten days after such birth to report in writing to the recorder of the county or health officer of cities having a freeholders charter where such birth takes place, in such form as may be prescribed by the state registrar, the date, place and residence, name, sex, race, and color of such child, and the names, residence, birthplace and age of the parents, their occupations, and the maiden name of the mother, and whether born in or out of wedlock, and such other information required by the state registrar. [Amended, Statutes 1905, p. 104.]

### **Fee for marriage license.**

§ 4300a. In addition to the charges otherwise provided for by law, the county clerk shall charge and collect the following fees:

\* \* \* \* \*

For issuing a marriage license, one-half to be paid to the county recorder, two dollars. This fee shall be in full for all services in connection with the issuance of a marriage license. [Amended, Statutes 1917, p. 902.]

## GENERAL LAWS.

### EDUCATIONAL RIGHTS OF CHILDREN.

*An act to enforce the educational rights of children and providing penalties for violation of the act.*

[Approved March 24, 1903; amended 1905, 1907, 1911, 1915; Statutes 1903, p. 388; 1905, p. 388; 1907, p. 95; 1911, p. 949; 1915, p. 762.]

#### **Each child must attend school.**

§ 1. Unless excused, as hereinafter provided, each parent, guardian, or other person, in the State of California, having control or charge of any child between the ages of eight and fifteen years, shall be required to send such child to a public school, during the time in which a public school shall be in session, in the city or city and county or school district in which said child resides; *provided*, that should it be shown to the satisfaction of the board of education of the city or city and county, or of the board of trustees of the school district, in which such child resides, that the child's bodily or mental condition is such as to prevent or render inadvisable attendance at school or application to study, a certificate from any reputable physician that the child is not able to attend school, or that its attendance is inadvisable, must be taken as satisfactory evidence by any such board, or that such child is being taught in a private school, or by a private tutor, or at home by any person capable of teaching, in such branches as are usually taught in the primary and grammar schools of this state; or that any such child between the age of twelve and fifteen has been given a permit to work by the proper judicial officers in accordance with section two of "An act regulating the employment and hours of labor of children, prohibiting the employment of minors under certain ages, prohibiting the employment of certain illiterate minors, providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof approved February 20, 1905"; or that no public school is located within two miles, by the nearest traveled road, of the residence of the child; or that the child has completed the prescribed grammar school course; then it shall be the duty of such board of education or board of trustees, upon application of the parent, or guardian, or other person having control or charge of such child, to excuse such child from attendance at school, during the continuance of such defect or condition upon which such excuse is granted; *and provided, further*, that circumstances rendering attendance impracticable or dangerous to health, owing to unusual storm or other sufficient cause, shall work an exemption from the penalties of this act. If any parent or guardian or other person having control or charge of any such child presents proof to such board of

education or board of trustees, by affidavit, that he is unable to compel such child to attend school, said parent, guardian or other person shall be exempt from the penalties of this act, as regards the subsequent non-attendance at school of such child, and said child may, in the discretion of such board, be deemed a truant and subject to assignment to the parental school. [Amended, Statutes 1911, p. 950.]

**Penalty for failure to send child to school.**

§ 2. Any parent, guardian, or other person having control or charge of any such child, who shall fail to comply with the provisions of this act, shall, unless excused or exempted therefrom as hereinbefore provided, be deemed guilty of a misdemeanor, and upon conviction, shall be liable, for the first offense, to a fine of not more than ten dollars or to imprisonment for not more than five days, and for each subsequent offense he shall be liable to a fine of not less than ten nor more than fifty dollars, or to imprisonment for not less than five days nor more than twenty-five days, or to both such fine and imprisonment.

**Investigation.**

§ 3. The board of education of any city or city and county, or the board of trustees of any school district, shall, on the complaint of any person, make full and impartial investigation of all charges against parents or guardians or other persons having control or charge of any such child, for violation of any of the provisions of this act. If it shall appear upon such investigation that any such parent or guardian or other person has violated any of the provisions of this act, it is hereby made the duty of the secretary of such board of education, except as hereinafter provided, or the clerk of such board of trustees, to make and file in the proper court a criminal complaint against such parent, guardian or other person, charging such violation, and to see that such charge is prosecuted by the proper authorities; *provided*, that in cities, and in cities and counties, and in school districts having an attendance officer or officers, such officer or officers shall, under the direction of the board of education, or the city superintendent of schools, or the board of trustees, make and file such complaint, and see that such charge is prosecuted by the proper authorities. [Amended, Statutes 1907, p. 95.]

**Attendance officer.**

§ 4. The board of education of any city, or city and county, may appoint and remove at pleasure an attendance officer, and assistant attendance officer of such city, or city and county, or the board of school trustees of any school district having an average daily attendance of at least three hundred children, according to the official school record of the preceding school year, may appoint and remove at pleasure one attendance officer, and assistant attendance officers, and shall fix his or their compensation payable from the county or special school fund of such city, or city and county, or school district, and shall prescribe their duties, not inconsistent with law, and make rules and regulations for the performance thereof;

*provided*, that not more than one attendance officer or assistant attendance officer shall be appointed for each seven thousand five hundred average daily attendance, according to the official school record of the preceding school term, or additional fraction thereof, greater than three thousand five hundred, in any city, or city and county, or school district in which such attendance officer and assistant attendance officers are appointed to serve. The authority appointing such attendance officer and assistant attendance officers in such city, city and county, or school district may also appoint and remove at pleasure one or more deputy attendance officers, to serve without compensation. The board of supervisors of any county, unless provision be made otherwise by statute for paid attendance officers, upon the petition of a majority of the boards of trustees of the school districts of the county which are not provided with paid school attendance officers, shall, upon the nomination of the county superintendent of schools, appoint and remove at pleasure an attendance officer and assistant attendance officers, and shall fix his or their compensation payable from the general fund of the county, and shall, upon the recommendation of the county superintendent of schools, prescribe their duties not inconsistent with law, and make rules and regulations for the performance thereof; *provided*, that not more than one attendance officer shall be appointed for each seven thousand five hundred average daily attendance in the portion of the county in which such officers shall be appointed to serve, according to the official school record of the preceding school term, or additional fraction thereof, greater than three thousand five hundred; such officers shall serve in such portions of the county as are not otherwise provided with paid attendance officers. The board of supervisors upon the recommendation of the county superintendent of schools, may, in its discretion, appoint and remove at pleasure one or more persons to act as deputy attendance officer or officers, to serve without compensation. The actual, necessary, incidental traveling expenses of such attendance officer, and assistant attendance officers, and deputy attendance officers of such county, incurred in the performance of their duties under the direction of the county superintendent of schools, when sworn to and when approved by such superintendent, may be ordered paid by such board of supervisors, out of the general fund of the county. [Amended, Statutes 1915, p. 762.]

#### **Commitment of truant children to parental school.**

§ 5. It shall be the duty of the attendance officer, or of any peace officer or any school officer, to arrest during school hours, without warrant, any child between eight and fifteen years of age, found away from his home, and who has been reported to him by the teacher, the superintendent of schools, or other person connected with the school department or schools as a truant from instruction upon which he is lawfully required to attend within the county, city, or city and county, or school district. Such arresting officer shall forthwith deliver the child so arrested either to the parent, guardian or other person having control or charge of such child, or to the teacher from whom said child is then a truant, or if such child shall have

been declared an habitual truant, he shall bring such child before a magistrate for commitment by him to a parental school as provided in this act. The attendance officer or other arresting officer shall report promptly such arrest, and the disposition made by him of such child to the school authorities of such city, or city and county, or school district. Any child may be reported as a truant, in the meaning of this act, who shall have been absent from school without valid excuse more than three days or tardy on more than three days, any absence for a part of a day being regarded as a tardiness. Any child who has once been reported as a truant and who is again absent from school, without valid excuse, one or more days, or tardy on one or more days, may again be reported as a truant. Any child may be deemed an habitual truant who shall have been reported as a truant three or more times. Any child who has once been declared an habitual truant and who, in a succeeding year, is reported as a truant from school one or more days or tardy on one or more days without valid excuse, may be again declared an habitual truant. [Amended, Statutes 1915, p. 763.]

#### **Establishment of parental schools.**

§ 6. The board of education of any city, or of any city and county, or the board of trustees of any school district having at least three hundred children, according to the official school record of the preceding school term, may establish schools in a manner hereinafter prescribed, or set apart in public school buildings a room or rooms for children between eight and fifteen years of age, who are habitual truants from instruction upon which they are lawfully required to attend or who are insubordinate or disorderly during their attendance upon such instruction, or irregular in such attendance. Such school or room shall be known as a parental school. A parental school, as herein designated and provided for, shall be one of the primary or grammar schools of the city, or city and county, or school district and the teachers therein shall have the same qualifications and be employed and paid in the same manner as in other primary and grammar schools; but such parental school shall be established and maintained specially for the instruction therein of such pupils, between the ages of eight and fifteen years, as shall be committed thereto as provided in this act, and no pupil shall be committed to, or required to attend, such school, except as in this act provided. Said board of education or board of trustees may make such special rules and regulations for the government of a parental school as shall be consistent with the provisions and purposes of this act, and not contrary to law. Such board may provide for the detention, maintenance and instruction of such children in such schools; and the county superintendent of schools, or such board, or the city superintendent of schools in any city, or city and county, or board of trustees, may, after reasonable notice to any such child, and an opportunity for the child to be heard, and with the consent of the parent, guardian or other person having control or charge of such child, order such child to attend such school, or to be detained and maintained therein for

such period and under such rules and regulations as such board may prescribe, not exceeding the remainder of the school year. If such parent, guardian, or person having control or charge of such child shall not consent to such order, such child may be proceeded against under this act. If any child in any city, or city and county or school district in which a parental school shall be established, shall be an habitual truant, or be irregular in attendance at school, within the meaning of these terms, as defined in this act, or shall be insubordinate or disorderly during attendance at school, it shall be the duty of the attendance officer, or of the secretary of the board of education or clerk of the board of trustees, if there be no attendance officer, to make and file a complaint against such child in the proper court, charging the fact, and to see that such charge is prosecuted by the proper authority; and if the court, upon the hearing of such complaint, shall find that such charge is sustained, the court shall render judgment that such child be committed to, and be detained and maintained in, a parental school in such city, or city and county, or school district for a term not to exceed the remainder of the current school year; *provided*, that if any child in any district of a county where there is not a parental school shall be an habitual truant, or be irregular in attendance at school, within the meaning of those terms as defined in this act, or shall be insubordinate or disorderly during attendance at school, it shall be the duty of the county superintendent of schools to make and file a complaint against such child in the superior court of such county, charging the facts; and if the court, upon the hearing of said complaint, shall find that such charge is sustained by the evidence, the court shall render judgment that such child shall be detained and maintained in a parental school, if there be one in such county, during the remainder of the school term, and if there be no parental school in such county, the court shall render judgment that the parent, guardian or person having the control or charge of such child shall deliver such child at the beginning of each school day for the remainder of the school term, at the school from which such child is then a truant; *provided*, that if the parent, guardian, or other person having control or charge of such child shall, within three days after the rendition of such judgment, execute a good and sufficient bond to the board of education of the city, or city and county, or board of trustees of the district, with sufficient sureties, in the sum of two hundred dollars, conditioned that such child will, during the remainder of such current school year, regularly attend some public or private school in such city, or city and county, or school district and not be insubordinate or disorderly during such attendance, such bond to be approved by the judge of said court, and be filed with the secretary of the board of education or clerk of the board of trustees, then such court shall make an order suspending the execution of such judgment so long as the condition of such bond shall be complied with. If the condition of such bond be violated, such court, upon receiving satisfactory evidence of the fact in any action brought therefor shall make an order declaring such bond forfeited and directing such judgment to be thenceforth enforced. Such board of education or board of trustees, may, at any time within one year after any such bond



shall be declared forfeited, have execution issued against any or all the parties to such bond to collect the amount thereof; and all moneys paid or collected on such bond shall be paid over to the parental school fund of such city, or city and county, or school district. No fees shall be charged or received by any court or officer in any proceeding under this section. The confinement of any child in a parental school shall be conducted with a view to the improvement of the child and to its restoration, as soon as practicable, to the school which he would, if not so confined, be required to attend. The city superintendent of schools, or, if there be no city superintendent, the board of education of any city, or city and county, or county superintendent of schools, shall have authority, in their discretion, to parole at any time any child committed to, or ordered to attend, a parental school, except when such commitment shall be by judgment or order of a court; and when such commitment of any child shall be by judgment or order of a court, such court may, on the recommendation of the city superintendent of schools or the board of education or county superintendent of schools, make an order paroling such child, upon such terms and conditions as shall be specified in the order. The expense incurred by any city, or city and county, or school district in purchasing or renting a school site, erecting or renting a building and equipping the same, for the maintenance of a parental school, shall be paid out of funds other than those collected for the maintenance of schools. The salaries of teachers and the expense for all school supplies in a parental school shall be paid out of the same funds from which similar salaries and expenses are paid for primary and grammar schools, but all other expense incurred in the maintenance of such parental schools shall be paid out of the parental school fund. [Amended, Statutes 1915, p. 764.]

#### **Method of procedure for establishing parental schools.**

§ 7. Whenever any board of education shall determine that it is necessary or expedient for the city or city and county to establish and maintain a parental school, said board shall furnish to the city council, or other governing body of such city, or city and county, all necessary and required information and statistics, and if, after consideration, such city council or other governing body grants its consent for the establishment of such parental school, then the board of education shall furnish to the authorities whose duty it is to levy taxes in such city, or city and county, thirty days before the time specified by law for fixing the annual tax rate, an estimate of the cost of purchasing or renting a suitable site, and also an estimate of the cost of renting or erecting a suitable building and equipping the same for occupancy as a parental school, and the cost to the city or city and county, other than for salaries of teachers and for school supplies, of conducting the school for the remainder of the current school year. When, pursuant to such consent by such governing body, such estimates shall have been so made and furnished by the board of education of any city, or city and county, it is hereby made the duty of the authorities whose duty it shall be to levy taxes in such city, or city and county, at the time of levying the taxes, to levy a special tax upon all taxable property of

said city, or city and county, sufficient in its judgment to provide the facilities requested by the board of education, and for which such estimates shall have been so furnished. It shall be the duty of the board of education, yearly, thereafter, to present to the authorities of the city, or city and county, whose duty it is to levy taxes, on or before the first Monday in July, an estimate of the moneys required for conducting the parental school for the school year, other than for the salaries of teachers and for school supplies. When such estimate shall have been so presented, it shall be the duty of the said authorities to levy a special tax upon the taxable property of said city, or city and county, sufficient to maintain such school for the year, exclusive of salaries of teachers and expense of school supplies. All taxes in this act provided for shall be computed, entered upon the tax roll and collected, in the same manner as other taxes are computed, entered and collected, and when collected shall be placed in a separate fund, to be known as the "parental school fund," and shall be paid out on the order of the board of education for the purposes set forth in this act; *provided*, that all moneys so collected for the purchase of sites or buildings, or the erection or equipment of buildings for parental school purposes, shall be placed in a separate fund, to be known as the "parental school building fund," and shall be used solely for the purpose or purposes for which collected, except that after such purpose or purposes shall have been fully accomplished, the residue of such fund, if any, may be transferred to said parental school fund.

#### **Any district may establish.**

§ 7½. The board of trustees of any school district wherein a parental school may be established under the provisions of this act, and whenever such board deems it proper, may, for the purpose of raising money for the establishment and maintenance of a parental school for said district, proceed under the provisions of article XIX, chapter III, title III, of part III, of the Political Code of this state, to raise moneys for such purpose, and the moneys so raised shall be paid into the county treasury, and shall constitute a "parental school fund," for such district. The moneys of such fund shall be used for no other purpose than herein indicated. Money shall be drawn from said fund by the trustees of the district in the same manner as money is drawn from other school funds. [Enacted, Statutes 1907, p. 99.]

#### **Joint parental schools.**

§ 8. Two or more school districts or cities may unite in the following manner, to form a joint district for the maintenance of a joint parental school. When any board of education or board of school trustees has secured, in the manner as set forth in section 7 of this act, the consent of the legislative body of the city or school district, in which said board of education or board of school trustees holds office, for the union of two or more districts to form a joint parental school district, said board of education or board of trustees shall transmit such information to the board of supervisors of the county of which said city or school district or districts

forms a part, setting forth at the same time the cities or districts with which said city or district seeks to unite for the maintenance of a joint parental school. When such information has been received by the board of supervisors from all the cities or school districts, seeking to be united, it is hereby made the duty of the board of supervisors, by resolution, to declare such cities or school districts united for the maintenance of a joint parental school, to be known as the joint parental school district of (give the names of the school districts uniting). When the districts have been so united, the boards of education or boards of trustees of the cities or school districts so uniting shall appoint a board of trustees for the joint parental school district, to consist of five members (unless the number of cities or school districts uniting exceeds five), who shall be appointed from the membership of the board of the several districts or cities uniting, by the respective boards in approximate proportion to the census children between five and seventeen years of age, in the districts uniting; *provided, however*, that each district shall be represented by at least one member on the board of trustees of the joint parental school district. The members so appointed to serve for the remainder of the term of office for which they were elected on their respective boards of education or boards of trustees, and when vacancies occur on said board of trustees of joint parental school districts, they shall be filled by the board making the original appointment. The superintendent of schools of each of the cities or school districts uniting, shall be ex officio members of the board of trustees of the joint parental school district, without the right to vote. In the management of a parental school within a school district, city, or city and county, the right to transport pupils to and from school at public expense, when, in the judgment of the board of education, or board of school trustees, the interest of the pupil demands it, is hereby conferred upon such boards. All the powers and duties by any section of this act conferred or imposed upon the boards of school trustees or boards of education of any city, or city and county, in the management of, and the securing of, funds for a parental school within a city or school district, are hereby conferred upon and imposed upon the board of trustees of any joint parental school district in the management of and the securing of funds for the support of a joint parental school; *provided, however*, that in estimating the expense of maintenance of a joint parental school the amount of money needed for the payment of teachers' salaries and for the furnishing of school supplies, shall be included in the estimate of expenses; *and provided, further*, that the estimates shall be transmitted to the board of supervisors of the county of which the joint parental school district forms a part. When such estimates shall have been so transmitted, it is hereby made the duty of the board of supervisors to levy a special tax upon the taxable property within the boundaries of the joint parental school district, sufficient to provide the facilities requested by the board of trustees of the joint parental school district, and for which such estimates shall have been furnished, and yearly thereafter when the estimates of the total expense of the maintenance of the joint parental school and increased facilities shall have been furnished the board of supervisors, it shall be the duty of said board to levy a special tax sufficient to

maintain the school for the year. All taxes in this act provided shall be computed and entered upon the tax roll and collected in the manner prescribed for the collection of taxes in section 7 of this act; *provided*, that all moneys so collected shall be collected by the county tax collector and apportioned to the credit of the joint parental school district, and placed in the fund for which they were specially collected. If for sites or buildings, to be placed in a fund known as the joint parental school building fund, to be used exclusively for the purposes for which they were collected, the same as set forth in section 7 of this act. The board of trustees of joint parental school districts shall organize, by the election of one of their number as chairman, and by the election of a secretary who shall be the city superintendent of schools, or the secretary of a board of education or the clerk of one of the boards of education or boards of trustees of the cities, or school districts united, and such secretary shall serve without additional salary. All moneys in a joint parental school fund shall be paid out on the order of the board of trustees of the joint parental school district for the purposes herein set forth, and in the same manner that funds are paid from the ordinary school funds of a school district.

**Fines paid to parental school fund.**

§ 9. All fines paid as penalties for the violation of any of the provisions of this act shall, when collected or received, be paid over by the justice or officer receiving the same to the treasurer of the city, or city and county, in which the offense was committed, to be placed to the credit of the parental school fund of such city, or city and county, if there be such a fund, otherwise to the credit of the general school fund of such city, or city and county, or to the county treasurer, to be placed to the credit of the school fund of the school district in which the offense was committed.

**Deaf or blind children must be sent to school.**

§ 10. Any parent or guardian of any deaf, dumb, or blind child, legally entitled to admission to said institution, shall send such child to said institution until such child shall have been therein for five years, or shall have reached the age of majority, unless such child shall be excused from such attendance by the board of education or board of trustees of the city, city and county, or school district in which such child resides, for the reason that the child's bodily or mental condition is such as to prevent or render inadvisable attendance at said institution, or for the reason that such child is receiving proper instruction at home or in some public or private school. Any parent or guardian failing to comply with the requirements of this section shall be guilty of a misdemeanor, and be punishable as provided in section two of this act.

**Officers having jurisdiction.**

§ 11. Any justice of the peace, or recorder of the city or city and county or any justice of the peace of the township in which the school district is located, or in which the offense is committed, shall have jurisdiction of all offenses committed under the provisions of this act.

§ 12. This act shall take effect and be in force from and after July first, nineteen hundred and three.

§ 13. An act entitled an act to enforce the educational rights of children, approved March twenty-eight, eighteen hundred and seventy-four, and all acts and parts of acts in conflict with any of the provisions of this act are hereby repealed.

*An act to aid the enforcement of an act entitled, "An act to enforce the educational rights of children and providing penalties for violations of the act," approved March 24, 1903.*

[Approved March 8, 1909; Statutes 1909, p. 209.]

§ 1. All minors coming within the provisions of an act entitled, "An act regulating the employment and hours of labor of children, prohibiting the employment of minors under certain ages, prohibiting the employment of certain illiterate minors, providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof," (approved February 20, 1905,) and found employed at work without the necessary legal authorization as provided for and required in said act, and whose ages are between the maximum and minimum age limits as described in an act entitled, "An act to enforce the educational rights of children and providing penalties for violation of the act," shall be placed or delivered into the custody of the school district authorities of the county, city, or city and county in which they are found illegally at work.

§ 2. The commissioner of the bureau of labor statistics is hereby authorized, directed and empowered to enforce the provisions of this act.

§ 3. This act shall take effect immediately.

## INDUSTRIAL WELFARE COMMISSION.\*

*An act regulating the employment of women and minors and establishing an industrial welfare commission to investigate and deal with such employment, including a minimum wage; providing for an appropriation therefor and fixing a penalty for violations of this act.*

[Approved May 26, 1913; amended 1915; Statutes 1913, p. 632; 1915, p. 950.]

### **Industrial welfare commission established.**

§ 1. There is hereby established a commission to be known as the industrial welfare commission, hereinafter called the commission. Said commission shall be composed of five persons, at least one of whom shall be a woman, and all of whom shall be appointed by the governor as follows: two for the term of one year, one for the term of two years, one for the term of three years, and one for the term of four years; *provided, however*, that at the expiration of their respective terms, their successors shall be appointed to serve a full term of four years. Any vacancies shall be similarly filled for the unexpired portion of the term in which the vacancy shall occur. Three members of the commission shall constitute a quorum. A vacancy on the commission shall not impair the right of the remaining members to perform all the duties and exercise all the powers and authority of the commission.

### **Compensation. Secretary.**

§ 2. The members of said commission shall draw no salaries but all of said members shall be allowed ten dollars per diem while engaged in the performance of their official duties. The commission may employ a secretary, and such expert, clerical and other assistants as may be necessary to carry out the purposes of this act, and shall fix the compensation of such employees, and may, also, to carry out such purposes, incur reasonable and necessary office and other expenses, including the necessary traveling expenses of the members of the commission, of its secretary, of its experts, and of its clerks and other assistants and employees. All employees of the commission shall hold office at the pleasure of the commission.

### **Duties.**

§ 3. (a) It shall be the duty of the commission to ascertain the wages paid, the hours and conditions of labor and employment in the various occupations, trades, and industries in which women and minors are employed in the state of California, and to make investigations into the comfort, health, safety and welfare of such women and minors.

\*The minimum wage for particular industries is fixed by order of the Industrial Welfare Commission and not by an act of the legislature. For information regarding orders in effect, address the Industrial Welfare Commission, 525 Market street, San Francisco, Cal.

(b) It shall be the duty of every person, firm or corporation employing labor in this state:

1. To furnish to the commission, at its request, any and all reports or information which the commission may require to carry out the purposes of this act, such reports and information to be verified by the oath of the person, or a member of the firm, or the president, secretary, or manager of the corporation furnishing the same, if and when so requested by the commission or any member thereof.

2. To allow any member of the commission, or its secretary, or any of its duly authorized experts or employees, free access to the place of business or employment of such person, firm, or corporation, for the purpose of making any investigation authorized by this act, or to make inspection of, or excerpts from, all books, reports, contracts, pay rolls, documents, or papers, of such person, firm or corporation relating to the employment of labor and payment therefor by such person, firm or corporation.

3. To keep a register of the names, ages, and residence addresses of all women and minors employed.

(c) For the purposes of this act, a minor is defined to be a person of either sex under the age of eighteen years.

#### **Public hearings.**

§ 4. The commission may specify times to hold public hearings, at which times, employers, employees, or other interested persons, may appear and give testimony as to the matter under consideration. The commission or any member thereof shall have power to subpoena witnesses and to administer oaths. All witnesses subpoenaed by the commission shall be paid the fees and mileage fixed by law in civil cases. In case of failure on the part of any person to comply with any order of the commission or any member thereof, or any subpoena, or upon the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated before any wage board or the commission, it shall be the duty of the superior court or the judge thereof, on the application of a member of the commission, to compel obedience in the same manner, by contempt proceedings or otherwise, that such obedience would be compelled in a proceeding pending before said court. The commission shall have power to make and enforce reasonable and proper rules of practice and procedure and shall not be bound by the technical rules of evidence.

#### **Conference of "wage board"—Compensation.**

§ 5. If, after investigation, the commission is of the opinion that, in any occupation, trade, or industry, the wages paid to women and minors are inadequate to supply the cost of proper living, or the hours or conditions of labor are prejudicial to the health, morals or welfare of the workers, the commission may call a conference, hereinafter called "wage board," composed of an equal number of representatives of employers and employees in the occupation, trade, or industry in question, and a representative of the commission to be designated by it, who shall act as the chairman of the wage board. The members of such wage board shall be

allowed five dollars per diem and necessary traveling expenses while engaged in such conferences. The commission shall make rules and regulations governing the number and selection of the members and the mode of procedure of such wage board, and shall exercise exclusive jurisdiction over all questions arising as to the validity of the procedure and of the recommendations of such wage board. The proceedings and deliberations of such wage board shall be made a matter of record for the use of the commission, and shall be admissible as evidence in any proceedings before the commission. On request of the commission, it shall be the duty of such wage board to report to the commission its findings, including therein:

1. An estimate of the minimum wage adequate to supply to women and minors engaged in the occupation, trade or industry in question, the necessary cost of proper living and to maintain the health and welfare of such women and minors.

2. The number of hours of work per day in the occupation, trade or industry in question, consistent with the health and welfare of such women and minors.

3. The standard conditions of labor in the occupation, trade or industry in question, demanded by the health and welfare of such women and minors.

#### **Power to fix wages, hours, etc.**

§ 6. (a) The commission shall have further power after a public hearing had upon its own motion or upon petition, to fix:

1. A minimum wage to be paid to women and minors engaged in any occupation, trade or industry in this state, which shall not be less than a wage adequate to supply to such women and minors the necessary cost of proper living and to maintain the health and welfare of such women and minors.

2. The maximum hours of work consistent with the health and welfare of women and minors engaged in any occupation, trade or industry in this state; *provided*, that the hours so fixed shall not be more than the maximum now or hereafter fixed by law.

3. The standard conditions of labor demanded by the health and welfare of the women and minors engaged in any occupation, trade or industry in this state.

(b) Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and acting upon any matters referred to in subsection (a) hereof, the commission shall give public notice by advertisement in at least one newspaper published in each of the cities of Los Angeles and Sacramento and in the city and county of San Francisco, and by mailing a copy of said notice to the county recorder of each county in the state, of such hearing and purpose thereof, which notice shall state the time and place fixed for such hearing, which shall not be earlier than fourteen days from the date of publication and mailing of such notices.

(c) After such public hearing, the commission may, in its discretion, make a mandatory order to be effective in sixty days from the making of



such order, specifying the minimum wage for women or minors in the occupation in question, the maximum hours; *provided*, that the hours specified shall not be more than the maximum for women or minors in California, and the standard conditions of labor for said women or minors; *provided, however*, that no such order shall become effective until after April 1, 1914. Such order shall be published in at least one newspaper in each of the cities of Los Angeles and Sacramento and in the city and county of San Francisco, and a copy thereof be mailed to the county recorder of each county in the state, and such copy shall be recorded without charge, and to the labor commissioner who shall send by mail, so far as practicable, to each employer in the occupation in question, a copy of the order, and each employer shall be required to post a copy of such order in the building in which women or minors affected by the order are employed. Failure to mail notice to the employer shall not relieve the employer from the duty to comply with such order. Finding by the commission that there has been such publication and mailing to county recorders shall be conclusive as to service.

**Order may be rescinded or amended.**

§ 7. Whenever wages, or hours, or conditions of labor have been so made mandatory in any occupation, trade, or industry, the commission may at any time in its discretion, upon its own motion or upon petition of either employers or employees, after a public hearing held upon the notice prescribed for an original hearing, rescind, alter or amend any prior order. Any order rescinding a prior order shall have the same effect as herein provided for in an original order.

**License to physically defective.**

§ 8. (a) For any occupation in which a minimum wage has been established, the commission may issue to a woman physically defective by age or otherwise, a special license authorizing the employment of such licensee, for a period of six months, for a wage less than such legal minimum wage; and the commission shall fix a special minimum wage for such person. Any such license may be renewed for like periods of six months.

(b) For any occupation in which a minimum wage has been established, the commission may issue to an apprentice or learner, a special license authorizing the employment of such apprentice or learner, for such time and under such conditions as the commission may determine at a wage less than such legal minimum wage; and the commission shall fix a special wage for such apprentice or learner.

(c) The commission may fix the maximum number of women, and minors under eighteen years of age, to be employed under the licenses provided for in subdivisions (a) and (b) of this section in any occupation, trade, industry or establishment in which a minimum wage has been established. [Amended, Statutes 1915, p. 950.]

### **Statistics.**

§ 9. Upon the request of the commission, the labor commissioner shall cause such statistics and other data and information to be gathered, and investigations made, as the commission may require. The cost thereof shall be paid out of the appropriations made for the expenses of the commission.

### **Discharging employee who testified, misdemeanor.**

§ 10. Any employer who discharges, or threatens to discharge, or in any other manner discriminates against any employee because such employee has testified or is about to testify, or because such employer believes that said employee may testify in any investigation, or proceedings relative to the enforcement of this act, shall be deemed guilty of a misdemeanor.

### **Payment of less than minimum wage prohibited.**

§ 11. The minimum wage for women and minors fixed by said commission as in this act provided, shall be the minimum wage to be paid to such employees, and the payment to such employees of a less wage than the minimum so fixed shall be unlawful, and every employer or other person who, either individually or as an officer, agent, or employee of a corporation or other person, pays or causes to be paid to any such employee a wage less than such minimum, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days, or by both such fine and imprisonment; and every employer or other person who, either individually or as an officer, agent or employee of a corporation, or other persons, violates or refuses or neglects to comply with the provisions of this act, or any orders or rulings of this commission, shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days, or by both such fine and imprisonment. [Amended, Statutes 1915, p. 950.]

### **Wage fixed presumed reasonable. Appeal.**

§ 12. In every prosecution for violation of any provision of this act, the minimum wage, the maximum hours of work and the standard conditions of labor fixed by the commission as herein provided, shall be prima facie presumed to be reasonable and lawful, and to be the living wage, the maximum hours of work and standard conditions of labor required herein. The findings of fact made by the commission acting within its powers shall, in the absence of fraud, be conclusive; and the determination made by the commission shall be subject to review only in a manner and upon the grounds following: within twenty days from the date of the determination, any party aggrieved thereby may commence in the superior court in and for the city and county of San Francisco, or in and for the counties of Los Angeles or Sacramento, an action against the commission for review of such determination. In such action a complaint,

which shall state the grounds upon which a review is sought, shall be served with the summons. Service upon the secretary of the commission, or any member of the commission, shall be deemed a complete service. The commission shall serve its answer within twenty days after the service of the complaint. With its answer, the commission shall make a return to the court of all documents and papers on file in the matter, and of all testimony and evidence which may have been taken before it, and of its findings and the determination. The action may thereupon be brought on for hearing before the court upon such record by either party on ten days' notice of the other. Upon such hearing, the court may confirm or set aside such determination; but the same shall be set aside only upon the following grounds:

- (1) That the commission acted without or in excess of its powers.
- (2) That the determination was procured by fraud.

Upon the setting aside of any determination the court may recommit the controversy and remand the record in the case to the commission for further proceedings. The commission, or any party aggrieved, by a decree entered upon the review of a determination, may appeal therefrom within the time and in the manner provided for an appeal from the orders of the said superior court. [Amended, Statutes 1915, p. 951.]

#### **Employee may sue for unpaid balance.**

§ 13. Any employee receiving less than the legal minimum wage applicable to such employee, shall be entitled to recover in a civil action the unpaid balance of the full amount of such minimum wage, together with costs of suit, notwithstanding any agreement to work for such lesser wage.

#### **Complaints.**

§ 14. Any person may register with the commission a complaint that the wages paid to an employee for whom a living rate has been established, are less than that rate, and the commission shall investigate the matter and take all proceedings necessary to enforce the payment of a wage not less than the living wage.

#### **Biennial report.**

§ 15. The commission shall biennially make a report to the governor and the state legislature of its investigations and proceedings.

#### **Appropriation.**

§ 16. There is hereby appropriated annually out of the moneys of the state treasury, not otherwise appropriated, the sum of fifteen thousand dollars, to be used by the commission in carrying out the provisions of this act, and the controller is hereby directed from time to time to draw his warrants on the general fund in favor of the commission for the amounts expended under its direction, and the treasurer is hereby authorized and directed to pay the same.

### **Not board of arbitration.**

§ 17. The commission shall not act as a board of arbitration during a strike or lock-out.

### **Interpretation of act—Constitutionality.**

§ 18. (a) Whenever this act, or any part or section thereof, is interpreted by a court, it shall be liberally construed by such court.

(b) If any section, subsection, or subdivision of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases is declared unconstitutional.

### **Act applies to all occupations.**

§ 19. The provisions of this act shall apply to and include women and minors employed in any occupation, trade or industry, and whose compensation for labor is measured by time, piece or otherwise.

## **HOURS OF LABOR OF CHILDREN.**

*An act regulating the employment and hours of labor of children—prohibiting the employment of minors under certain ages—prohibiting the employment of certain illiterate minors—providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof.*

[Approved February 20, 1905; amended 1907, 1909, 1911, 1915, 1917;

Statutes 1905, p. 11; 1907, pp. 598, 978; 1909, pp. 211, 387; 1911, pp. 282, 910; 1913, p. 364; 1915, p. 1201; 1917, p. 826.]

### **Hours of labor of minors under fifteen.**

§ 1. No minor under the age of fifteen years shall be employed, permitted or suffered to work in or in connection with any mercantile establishment, manufacturing establishment, mechanical establishment, workshop, office, laundry, place of amusement, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages, or in any other place of labor at any time; *provided, however*, that on the regular weekly school holidays and during the regular vacation of public schools of the city, county, or city and county, in which the place of employment is situated, a minor under the age of fifteen years, but over the age of twelve years, may be employed if provided with a vacation permit as hereinafter provided; *and provided, further*, that any minor fourteen years of age shall, upon application to the school authorities as in the case of an

age and schooling certificate, and upon compliance with all the requirements for the issuance of an age and schooling certificate, be entitled to receive from the officers authorized to issue age and schooling certificates a permit to work outside of school hours. [Amended, Statutes 1915, p. 1201.]

**Permit to work granted, when.**

§ 2. The superintendent of schools of any city, or of any city and county, or of any county (over such portions of any such county as are not within the jurisdiction of any superintendent of city schools) shall have authority to issue a permit to work to any minor of the age of fourteen years, in any of the following circumstances:

(1) Where such minor has completed the prescribed grammar school course, and is physically fitted for the labor contemplated; or,

(2) Where upon the sworn statement being made by the parent, or foster-parent, or guardian, of such minor, that such minor is past the age of fourteen years, that the parent or parents, or foster-parent or foster-parents, or guardian, of such minor is incapacitated for labor through illness or injury, or that through the death or desertion of the father of such minor, the family is in need of the earnings of such minor, and that sufficient aid can not be secured in any other manner. The person authorized to issue such permit shall make a signed statement in granting such permit that he, or a competent person designated by him for this purpose has carefully investigated the conditions under which the application for such permit has been asked, and has found that in his judgment the earnings of such minor are necessary for such family to support such minor, and that in his judgment sufficient aid can not be secured in any other manner. [Amended, Statutes 1915, p. 1202.]

**Kind of labor specified. Permits.**

§ 3. No permit as specified in section two of this act shall be issued except upon written evidence that suitable work is waiting for such minor, and such permit shall specify the kind of labor. Permits issued under subdivision two of said section two shall in no case be issued for a longer period than shall seem necessary, nor for longer than six months, at the end of which period such superintendent shall see that such minor returns to school, unless a new permit to labor is issued. Such permit shall be kept on file by the person, firm or corporation employing the minor therein designated, during the term of said employment, and shall be given up to such minor upon his quitting such employment. Where such minor works for himself and not for others, such minor shall keep in his possession such permit. Such permit shall be issued on forms in accordance with this act, which shall be prepared and provided by the commissioner of the bureau of labor statistics of the State of California. Such permit shall be subject to revocation at any time by such commissioner of the bureau of labor statistics, or by the authority issuing such permit, whenever such commissioner, or the authority issuing such permit shall find that the conditions for the legal issuance of such permit do not exist. Such permit

shall be always open to the inspection of the attendance and probation officers, or of the officers of the state bureau of labor statistics. A duplicate copy of each permit to work granted under the provisions of this act shall be kept by the person issuing such permit, such copy to be filed with the superintendent of schools of the city, or city and county, or county, as the case may be; *provided*, that all copies of permits issued between June 25th and December 25th of any year shall be filed not later than December 31st of such year; and those issued between December 25th and June 25th of the ensuing year shall be filed not later than June 30th of each year. Corresponding semi-annual reports of all such permits issued shall be made by such superintendents in such form as may be required by the commissioner of the bureau of labor statistics of the State of California. [Amended, Statutes 1915, p. 1202.]

#### **Work forbidden children under sixteen.**

§ 4. No child under the age of sixteen years shall be employed, permitted or suffered to work at any of the following occupations or in any of the following positions: adjusting any belt to any machinery, or sewing or lacing machine belts in any workshop or factory, or oiling, wiping or cleaning machinery or assisting therein, or operating or assisting in operating any of the following machines: (a) Circular or band saws; (b) wood-shapers; (c) wood jointers; (d) planers; (e) sandpaper or wood polishing machinery; (f) wood-turning or boring machinery; (g) picker machines or machines used in picking wool, cotton, hair or any other material; (h) carding machines; (i) paper-lace machines; (j) leather-burnishing machines; (k) job or cylinder printing presses operated by power other than foot power; (l) boring or drill presses; (m) stamping machines used in sheet-metal and tinware or in paper and leather manufacturing, or in washer and nut factories; (n) metal or paper cutting machines; (o) corner staying machines in paper box factories; (p) corrugating rolls, such as are used in corrugated paper, roofing or washboard factories; (q) steam boilers; (r) dough brakes or cracker machinery of any description; (s) wire or iron straightening or drawing machinery; (t) rolling mill machinery; (u) power punches or shears; (v) washing, grinding or mixing machinery; (w) calender rolls in paper and rubber manufacturing; (x) laundering machinery; or in proximity to any hazardous or unguarded belts, machinery or gearing; or upon any railroad, whether steam, electric or hydraulic; or upon any vessel or boat engaged in navigation or commerce within the jurisdiction of this state; *provided, however*, that the provisions of this section shall not apply to the courses of training in vocational or manual training schools or in state institutions. [Amended, Statutes 1915, p. 1203.]

#### **Trades forbidden children under sixteen.**

§ 5. No child under the age of sixteen years shall be employed, permitted or suffered to work in any capacity (1) in, about or in connection with any processes in which dangerous or poisonous acids are used:

(2) nor in the manufacture or packing of paints, colors, white or red lead; (3) nor in soldering; (4) nor in occupations causing dust in injurious quantities; (5) nor in the manufacture or use of dangerous or poisonous dyes; (6) nor in the manufacture or preparation of compositions with dangerous or poisonous gases; (7) nor in the manufacture or use of compositions of lye in which the quantity thereof is injurious to health; (8) nor on scaffolding; (9) nor in heavy work in the building trades; (10) nor in any tunnel or excavation; (11) nor in, about or in connection with any mine, coal breaker, coke oven, or quarry; (12) nor in assorting, manufacturing or packing tobacco; (13) nor in operating any automobile, motor car or truck; (14) nor in a bowling alley; (15) nor in a pool or billiard room; (16) nor in any other occupation dangerous to the life or limb, or injurious to the health or morals of such child. [Amended, Statutes 1915, p. 1203.]

**Labor commissioner to determine whether business is forbidden.**

§ 6. The bureau of labor statistics may, from time to time, after a hearing duly had, determine whether or not any particular trade, process of manufacture or occupation, in which the employment of children under the age of sixteen years is not already forbidden by law, or any particular method of carrying on such trade, process of manufacture or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of children under sixteen years of age to justify their exclusion therefrom. No child under sixteen years of age shall be employed, permitted or suffered to work in any occupation thus determined to be dangerous or injurious to such children. There shall be a right of appeal to the superior court from any such determination. [Amended, Statutes 1915, p. 1204.]

**Minors under eighteen not to work over eight hours.**

§ 7. No minor under the age of eighteen years shall be employed in laboring in any manufacturing, mechanical, or mercantile establishment or other place of labor, more than eight hours in one day or more than forty-eight hours in one week, except when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week, nor before the hour of five o'clock in the morning, nor after the hour of ten o'clock in the evening. [Amended, Statutes 1915, p. 1204.]

**Telegraph messengers.**

§ 8. No person under the age of eighteen years shall be employed, permitted or suffered to work as a messenger for any telegraph, telephone or messenger company in the distribution, transmission or delivery of goods or messages before six o'clock in the morning, or after nine o'clock in the evening of any day. [Amended, Statutes 1915, p. 1204.]

### **Permits signed by school officers.**

§ 9. Vacation permits shall be signed by the principal, vice-principal of the school, or secretary of the board of school trustees or board of education of the school which such minor is attending, or has attended during the term next preceding any such vacation. Such permit shall contain the name and age of the minor to whom it is issued, and when issued for the regular vacation, the date of the termination of the vacation for which it is issued, and in any case shall be kept on file by the employer during the period of employment, and at the termination of such employment shall be returned to the minor to whom it was issued. [Amended, Statutes 1915, p. 1205.]

### **Age and schooling certificate.**

§ 10. No minor of the age of fifteen years shall be employed, permitted or suffered to work in or in connection with any of the places enumerated in section one during the hours the public schools are in session, unless such minor is provided with an age and schooling certificate as herein provided.

An age and schooling certificate shall be approved only by the superintendent of schools of the city or city and county, or by a person authorized by him in writing, or where there is no city or city and county superintendent of schools, by a person authorized by the local school trustees; *provided*, that the superintendent or principal of any school of recognized standing shall have the right to approve an age and schooling certificate, and shall have the same rights and powers as the superintendent of public schools to issue the certificate herein provided for the children attending such schools. The person authorized to issue age and schooling certificates shall have the authority to administer the oaths necessary for carrying out the provisions of this act, but no fees shall be charged for issuing such certificates. The person authorized to issue age and schooling certificates shall not issue such certificates until the minor in question, accompanied by its parent or guardian, has personally made application to him therefor, and until he has received, examined, approved and filed the following papers duly executed: (1) The school record of such minor, giving age, grade and attendance for current term, duly signed by the principal or teacher. (2) A duly attested transcript of the birth certificate filed according to law with any officer charged with the duty of recording births; or a passport, or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such minor; or, in case the officer authorized to issue the certificate is satisfied that none of such proofs of age can be produced, other evidence of age can be produced, such as school enrollment record, or affidavit of the parent, guardian or custodian of such minor, such as shall convince such officer that the minor is fifteen years of age or upwards. (3) The written statement of the person, firm or corporation in whose service the minor is about to enter, that he intends to employ the minor, which statement shall give the nature of the occupation for which the child is to be employed. (4) A



certificate signed by a physician appointed by the school board, or other public medical officer, stating that such minor has been examined by him and, in his opinion, has reached the normal development of a minor of its age and is in sufficiently sound health and physically able to be employed in the work which it intends to do; *provided, however*, that no fee shall be charged the minor for such physician's certificate.

Age and schooling certificates shall be issued on forms which shall be prepared and provided by the commissioner of the bureau of labor statistics of the State of California, and shall be substantially in the following form, to wit:

*Age and schooling certificate.* This certifies that I am the (father, mother or guardian) of (name of the minor) and that (he or she) was born at (name of the city or town), in the county of (name of county, if known), and state (or country) of (name) on the day (day and year of birth), and is now (number of years and of months) old.

Signature, as provided in this act.

City or town, and date.

There personally appeared before me the above named (name of person signing) and made oath that the foregoing certificate by (him or her) signed is true to the best of (his or her) knowledge and belief.

I hereby approve the foregoing certificate of (name of minor), height (feet and inches), complexion (fair or dark), hair (color), having no sufficient reason to doubt that (he or she) is of the age therein certified, and I hereby certify that (he or she) has completed the prescribed grammar school course or that (he or she) has completed the equivalent of the seventh grade of the regular grammar school course and is a regular attendant for the then current term at a regularly conducted night school.

Signature of the person authorized to sign, with his official character and authority.

Town or city and date.

This certificate belongs to the minor in whose behalf it is drawn and it shall be presented to (him or her) whenever (he or she) leaves the service of the person, firm or corporation holding the same.

The certificate as to the birthplace and age of the minor under sixteen years of age shall be signed by his father, his mother, or his guardian; if a minor has no father, mother, or guardian living in the same city or town, his own signature to the certificate may be accepted by the person authorized to approve the same. Every person authorized to sign the certificate prescribed by this act, who knowingly certifies to any false statement therein, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five nor more than fifty dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

A duplicate copy of each age and schooling certificate granted under the provisions of this act shall be kept by the person issuing such certificate, such copy to be filed with the county superintendent of schools in the county where the certificate is issued; *provided*, that all such copies of

certificates issued between June 25th and December 25th of any year shall be filed not later than December 31st of such year; and those issued between December 25th and June 25th of the ensuing year shall be filed not later than June 30th of each year. The county superintendent of schools of each county shall file with the commissioner of the bureau of labor statistics, a report showing the number of age and schooling certificates issued to male and female minors and such other detailed information as the commissioner may require. Said report to be filed during the months of January and July of each year for the preceding six months, ending June 25th and December 25th of each year, and cover certificates issued during said periods and on file in the office of the county superintendent of schools as described in this section. [Amended, Statutes 1915, p. 1205.]

**Not to remain idle during school hours.**

§ 11. No minor having an age and schooling certificate, as hereinbefore described, and no other minor under sixteen years of age, who would by law be required to attend school, shall, while the public schools are in session, be and remain idle and unemployed for a period longer than two weeks, but must enroll and attend school; *provided*, that within one week after any minor having such age and schooling certificate shall have ceased to be employed by any employer, such employer shall, in writing, giving the latest correct address of such minor known to such employer, notify the issuing officer that such minor is no longer employed by such employer; and such issuing officer shall thereupon immediately notify the attendance officer having jurisdiction in the place of such minor's residence, giving the said latest known correct address of such minor, that such minor is neither at work nor in school; *and provided, further*, that no such minor shall be permitted to cease school attendance, without securing an age and schooling certificate as provided in this act. [Amended, Statutes 1915, p. 1207.]

**Employer to keep record of minors employed.**

§ 12. Every person, firm, corporation or agent, or officer of a firm or corporation, employing minors under the age of eighteen years shall keep a register containing the names and addresses of such minor employees and shall post and keep posted in a conspicuous place, in every room where such minors are employed, a written or printed notice stating the hours per day for each day of the week required of such minors, and shall keep on file all permits and certificates required by this act for minors under the age of sixteen years. Such records and files shall be open at all times to the inspection of the school attendance and probation officers and the officers of the state bureau of labor statistics.

All certificates and permits shall be given up to such minor upon his quitting such employment. Where such minor works for himself and not for others, such minor shall keep in his possession such certificate. Such certificate shall be subject to revocation at any time by such commissioner

of the bureau of labor statistics, or by the authority issuing such certificate, whenever such commissioner or the authority issuing such certificate shall find that conditions for the legal issuance of such certificate do not exist. [Amended, Statutes 1915, p. 1207.]

**Penalty. Fines paid into school fund.**

§ 13. Any person, firm, corporation, agent or officer of a firm or corporation that violates or omits to comply with any of the foregoing provisions of this act, or that employs or suffers or permits any minor to be employed in violation thereof, is guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars or more than two hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment, for each and every offense. A failure to produce any age and schooling certificate or vacation permit to work or to post any notice required by this act shall be prima facie evidence of the illegal employment of any minor whose age and schooling certificate or permit to work is not produced, or whose name is not so posted. Any fine collected under the provisions of this act shall be paid into the school funds of the county, or city, or city and county, in which the offense occurred; except such fines imposed and collected as the result of prosecutions by the officers of the bureau of labor statistics, in which cases one-half of the resultant fine or fines shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics, and one-half paid into the school funds of the county, or city, or city and county, in which the offense occurred. [Amended, Statutes 1915, p. 1208.]

**Agricultural, etc., employment not prohibited. Theatre.**

§ 14. Nothing in this act shall be construed to prohibit the employment of minors sixteen years of age or over at agricultural, horticultural, or viticultural, or domestic labor. Nor shall anything in this act be construed to prohibit the employment of minors at agricultural, horticultural, or viticultural, or domestic labor, during the time the public schools are not in session, or during other than school hours. For the purpose of this act, horticultural shall be understood to include the curing and drying, but not the canning of all varieties of fruit. Nor shall anything in this act be construed to prohibit any minor between the ages of fifteen and eighteen years, who is by any statute or statutes of the State of California, now or hereafter in force, permitted to be employed as an actor, or actress, or performer in a theatre, or other place of amusement, previous to the hour of ten o'clock p. m., in the presentation of a performance, play or drama, continuing from an earlier hour till after the hour of ten o'clock p. m. from performing his or her part in such presentation as such employee between the hours of ten and twelve o'clock p.m.; *provided*, the written consent of the commissioner of the bureau of labor statistics is first obtained. Nor shall anything in this act prevent, or be construed to prohibit, the employment of any minor, whether resident or nonresident, in the presentation of a drama, play, performance, concert

or entertainment, with the written consent of the commissioner of the bureau of labor statistics, but no such consent shall be given unless the officer giving it is satisfied that the environment in which the drama, play, performance, concert or entertainment is to be produced is a proper environment for the minor, and that the conditions of such employment are not detrimental to the health of such minor, and that the minor's education will not be neglected or hampered by its participation in such drama, play, performance, concert or entertainment, and the commissioner may require the person charged with the issuance of age and schooling certificates to make the necessary investigation into such conditions; and every such written consent shall specify the name and age of the minor together with such other facts as may be necessary for the proper identification of such minor, and the dates when, and the theatres or other places of amusement in which such drama, play, performance, concert or entertainment is to be produced, and shall specify the drama, play, performance, concert or entertainment in which the minor is permitted to participate, and every such consent shall be revocable at the will of the officer giving it. Dramas and plays shall include the production of motion picture plays. [Amended, Statutes 1917, p. 826.]

#### **When work is deemed done.**

§ 15. Work shall be deemed to be done for a manufacturing establishment within the meaning of this act, whenever it is done at any place upon the work of a manufacturing establishment or upon any of the materials entering into the product of the manufacturing establishment, whether under contract or arrangement with any person in charge of or connected with such manufacturing establishment directly or indirectly, through the instrumentality of one or more contractors or other third persons. [Amended, Statutes 1915, p. 1209.]

#### **Boys under ten and street occupations.**

§ 16. No boy under ten years of age, nor girl under eighteen years of age, shall be employed, permitted or suffered to work at any time in or in connection with the street occupation of peddling, boot blacking, the sale or distribution of newspapers, magazines, periodicals or circulars nor in any other occupation pursued in any street or public place; *provided, however*, that nothing in this section shall be construed to apply to cities whose population is less than twenty-three thousand according to the last federal census.

Any person, firm, corporation, or agent, or officer of a firm or corporation, or any parent or guardian violating the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than fifty dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment. [Enacted, Statutes 1915, p. 1209.]

#### **Duty of labor commissioner, and attendance officers.**

§ 17. The bureau of labor statistics shall enforce the provisions of this act. The commissioner, his deputies and agents, shall have all the

powers and authority of sheriffs or other peace officers, to make arrests for violation of the provisions of this act, and to serve any process or notice throughout the state.

The attendance officer of any county, city and county, or school district in which any place of employment, in this act named, is situated, or the probation officer of such county, shall have the right and authority, at all times, to enter into any such place of employment for the purpose of investigating violations of the provisions of this act, or violations of the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, and any act amending or superseding the same; *provided, however*, that if such attendance or probation officer is denied entrance to such place of employment, any magistrate may, upon the filing of an affidavit by such attendance or probation officer setting forth the fact that he has a good cause to believe that the provisions of this act, or the act hereinbefore referred to, are being violated in such place of employment, issue an order directing such attendance or probation officer to enter said place of employment for the purpose of making such investigations. [Enacted, Statutes 1915, p. 1210.]

#### **Repealed.**

§ 18. All acts and parts of acts inconsistent herewith are hereby expressly repealed. [Enacted, Statutes 1915, p. 1210.]

#### **Constitutionality.**

§ 19. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. [Enacted, Statutes 1915, p. 1210.]

### **NIGHT WORK BY MINORS.**

*An act to prohibit minors under the age of eighteen years to vend and sell goods, engage in, or conduct any business between the hours of ten o'clock in the evening and five o'clock in the morning, and providing penalties for violations thereof.*

[Approved May 1, 1911; Statutes 1911, p. 1341.]

§ 1. It shall be unlawful for any minor under the age of eighteen years to vend and sell goods, engage in, or conduct any business between the hours of ten o'clock in the evening and five o'clock in the morning.

§ 2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than twenty dollars, or by imprisonment for not more than ten days, or by both such fine and imprisonment for each offense.

## EIGHT HOUR LAWS FOR WOMEN.

*An act limiting the hours of labor of females employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel, or restaurant, or telegraph or telephone establishment or office, or by any express or transportation company; compelling each employer in any manufacturing, mechanical, or mercantile establishment, laundry, hotel or restaurant, or other establishment employing any female to provide suitable seats for all female employees and to permit them to use such seats when they are not engaged in the active duties of their employment; and providing a penalty for failure, neglect or refusal of the employer to comply with the provisions of this act, and for permitting or suffering any overseer, superintendent, foreman or other agent of any such employer to violate the provisions of this act.*

[Approved March 22, 1911; amended, 1913, 1917; Statutes 1911, p. 437; 1913, p. 713, 1917, p. 828.]

**Females not to work more than eight hours per day—Not applicable to harvesting, nurses, etc.**

§ 1. No female shall be employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel, public lodging house, apartment house, hospital, place of amusement, or restaurant, or telegraph or telephone establishment or office, or by any express or transportation company in this state more than eight hours during any one day or more than forty-eight hours in one week. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than eight hours during the twenty-four hours of one day, or forty-eight hours during any one week; *provided, however*, that the provisions of this section in relation to hours of employment shall not apply to or affect graduate nurses in hospitals, nor the harvesting, curing, canning or drying of any variety of perishable fruit, fish or vegetable during such periods as may be necessary to harvest, cure, can or dry said fruit, fish or vegetable in order to save the same from spoiling. [Amended, Statutes 1917, p. 828.]

**Seats for female employees.**

§ 2. Every employer in any manufacturing, mechanical or mercantile establishment, laundry, hotel, or restaurant, or other establishment employing any female, shall provide suitable seats for all female employees, and shall permit them to use such seats when they are not engaged in the active duties of their employment. [Amended, Statutes 1913, p. 714.]

**Enforcement of act.**

§ 3. The bureau of labor statistics shall enforce the provisions of this act. The commissioner, his deputies and agents, shall have all powers and authority of sheriffs or other peace officers, to make arrests for violations of the provisions of this act, and to serve all processes and notices thereunder throughout the state. [Amended, Statutes 1913, p. 714.]

### **Penalty. Disposition of fines.**

§ 4. Any employer who shall permit or require any female to work in any of the places mentioned in section one more than the number of hours provided for in this act during any day of twenty-four hours, or who shall fail, neglect, or refuse to so arrange the work of females in his employ so that they shall not work more than the number of hours provided for in this act during any day of twenty-four hours, or who shall fail, neglect, or refuse to provide suitable seats as provided in section two of this act, or who shall permit or suffer any overseer, superintendent, foreman, or other agent of any such employer to violate any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for a first offense, by a fine of not less than twenty-five dollars nor more than fifty dollars; for a second offense, by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars; or by imprisonment for not more than sixty days, or by both such fine and imprisonment. All fines imposed and collected under the provisions of this act shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics. [Amended, Statutes 1913, p. 714.]

### **REGULATING EMPLOYMENT AGENCIES.**

[Sections from act regulating private employment agencies, approved June 3, 1913; amended 1915; Statutes 1913, p. 515; 1915, p. 929.]

### **Sending woman or minor to immoral place prohibited.**

§ 14. No licensed person conducting an employment agency shall send or cause to be sent, any woman or minor under the age of twenty-one years, as an employee to any house of ill fame or to any house or place of amusement for immoral purposes, or to places resorted to for the purpose of prostitution, or gambling houses, the character of which such licensed person could have ascertained upon reasonable inquiry. No licensed person shall send any minor under the age of eighteen years to any saloon or place where intoxicating liquors are sold to be consumed on the premises. No licensed person shall knowingly permit any person of bad character, prostitutes, gamblers, intoxicated persons or procurers to frequent such agencies. No licensed person shall accept any application for employment made by or on behalf of any child, or shall place or assist in placing any such child in any employment whatever in violation of the child labor law. \* \* \* [Amended, Statutes 1915, p. 931.]

\* \* \* \* \*

### **Penalty.**

§ 18. Any person, firm, corporation or their agents or representatives violating or omitting to comply with any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars or more than two hundred and fifty dollars or by imprisonment for a period of not more than sixty days or by both such fine and imprisonment.

**Enforcement.**

§ 19. The commissioner of labor, his deputies and agents shall have the power and authority of sheriffs and other peace officers to make arrests for violations of the provisions of this act and to serve any process or notice throughout the state.

**CIVIC CENTERS IN SCHOOLS.**

*An act providing for the free use of all public schoolhouses and property and to establish a civic center at each and every public schoolhouse in the State of California, and to provide for the maintenance, conduct and management of the same.*

[Approved June 6, 1913; Statutes 1913, p. 853.]

**Public schoolhouse created civic center.**

§ 1. There is hereby established a civic center at each and every public schoolhouse within the State of California, where the citizens of the respective public school districts within the said State of California may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any and all subjects and questions which in their judgment, may appertain to the educational, political, economic, artistic and moral interests of the citizens of the respective communities in which they may reside; *provided*, that such use of said public schoolhouse and grounds for said meetings shall in no wise interfere with such use and occupancy of said public schoolhouse and grounds as is now, or hereafter may be required for the purposes of said public schools of the State of California.

**Lighting, heating, janitor service, etc.**

§ 2. Lighting, heating, janitor service and the services of a special supervising officer when needed, in connection with such use of public school buildings and grounds as set forth in section one of this act, shall be provided for out of the county or special school funds of the respective school districts in the same manner and by the same authority as such similar services are now provided for. Such use of the said schoolhouses, property and grounds shall be granted free; *provided*, that in case of entertainments where an admission fee is charged, a charge may be made for the use of said schoolhouses, property and grounds.

**Control of civic center.**

§ 3. The management, direction and control of said civic center shall be vested in the board of trustees or board of education of the school district. Said board of trustees or board of education shall make all needful rules and regulations for conducting said civic center meetings and for such recreational activities as are provided for in section one of this act; and said board of trustees or board of education may appoint a special supervising officer who shall have charge of the grounds, preserve order, protect the school property and do all things necessary in the capacity of a peace officer to carry out the provisions and the intents and purposes of this act.



## INTOXICATING LIQUORS AT SCHOOLS.

*An act prohibiting the sale, gift or delivery of intoxicating liquor at public schoolhouses and prescribing penalties for the violation of any provision hereof.*

[Approved April 1, 1915; Statutes 1915, p. 20.]

### **Sale of liquors at public schools prohibited.**

§ 1. Any person, firm, association or corporation that sells, gives or delivers to any person any intoxicating liquor at any public schoolhouse or upon any portion of the grounds thereof, is guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars or by imprisonment in a county jail not to exceed six months, or by both such fine and imprisonment.

### **Penalty.**

§ 2. Any person, firm, association or corporation convicted of the violation of any provision of this act shall, for a period of one year from and after such conviction, be barred from having or receiving any privilege accorded by that certain act entitled "An act providing for the free use of all public schools and property, and to establish a civic center at each and every public schoolhouse in the State of California," and to provide for the maintenance, conduct and management of the same," approved June 6, 1913.

## GUARDIANSHIP OF ORPHANS.

*An act to provide for the appointment of guardians of children maintained in any orphans' home or orphan asylum in this state.*

[Approved March 23, 1893; Statutes 1893, p. 203.]

§ 1. When any orphan or half orphan has been maintained in any orphans' asylum or orphans' home in the State of California for more than one year, the managers of said home or asylum shall be entitled to the guardianship of such child in preference to any other person; *provided, however,* that such managers shall not be appointed guardian of a minor child over fourteen years of age without its consent, nor shall this act preclude the court of competent jurisdiction from inquiring into the fitness of such managers for the guardianship of such children; but in exercising the power of the court to appoint guardians for minors, the managers of the home having the care of such child for more than one year shall, if there be no special reasons to the contrary in any particular case, be preferred in the guardianship of the person of the child to the parent so leaving the child, without good cause therefor being shown, under the care of said home for the said time.

§ 2. This act shall take effect immediately.

## CONTROL OF CHILDREN'S HOME FINDING SOCIETIES.

*An act providing for the supervision and control by the state board of charities and corrections of the placing of dependent children into homes and for the supervision of all societies or organizations engaged in such work and known as children's home finding societies.*

[Approved April 24, 1911; Statutes 1911, p. 1087.]

§ 1. It shall hereafter be unlawful for any organization, society or persons to engage in the work of placing dependent children into homes in this state without first obtaining a permit therefor, duly executed in writing, from the state board of charities and corrections.

§ 2. The said state board of charities and corrections may investigate, or cause to be investigated, the books, records, and methods of such organizations, societies, or persons, and the disposition of the children coming into their custody; and it may make such rules and regulations as it may deem best for the government and regulation of such societies or persons, and may require such reports as it may desire.

§ 3. The said state board of charities and corrections is hereby authorized and empowered to withdraw and cancel any permit to engage in the work of placing children into homes for any failure to observe the rules and regulations established for their government, or the failure to report as required, or for any failure on their part to perform their work as required by the best interests of the state, but no permit shall be canceled or withdrawn without due notice and hearing.

§ 4. It is hereby made a misdemeanor for any person or persons, either as individuals or officers of any association or society, to engage in the work of placing children into homes, or the soliciting of funds therefor, in this state without a permit duly executed in writing by the state board of charities and corrections, authorizing said persons or such association or society to engage therein, or to engage in such work after any permit has been canceled.

§ 5. This act shall not be construed as applying to any regularly established orphan home or any officer or official thereof acting for or on behalf of such home receiving aid from the state for the care of orphans, half orphans or abandoned children in any effort such institution or its officers may make to procure the adoption into homes or any officer or official thereof acting for or on behalf of such home of any such children.

§ 6. This act shall take effect immediately.

### **MINORS NOT TO ATTEND PRIZE FIGHTS.**

*An act to prevent any minor under the age of eighteen years visiting any prize fight, cock fight, or place where any prize fight or cock fight is advertised or represented to take place and to provide a punishment therefor.*

[Approved April 17, 1909; Statutes 1909, p. 983.]

§ 1. It shall be unlawful for any minor under the age of sixteen years to visit or attend any prize fight, cock fight, or place where any prize fight, cock fight, or place where any prize fight or cock fight is advertised to take place.

§ 2. It shall be unlawful for the owner, lessee or proprietor or the agent of any owner, lessee or proprietor of any place where any prize fight or cock fight is advertised or represented to take place to admit any minor under the age of eighteen years to such place where any prize fight or cock fight is advertised or represented to take place; or to admit, or to sell or give away to any such minor a ticket or other paper by which said minor might be admitted to such place where such prize fight or cock fight is advertised to take place.

§ 3. Every person violating any of the provisions of the preceding sections is guilty of a misdemeanor, and shall be punished by a fine of not exceeding fifty dollars, or be imprisoned in county jail not more than twenty-five days.

### **INSURANCE OF CHILDREN IN FRATERNAL BENEFIT SOCIETIES.**

*An act to provide whole family protection for members of fraternal benefit societies.*

[Approved April 20, 1917; Statutes 1917, p. 144.]

#### **Payment of benefits on lives of children.**

§ 1. Any fraternal benefit society authorized to do business in this state and operating on the lodge plan, may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death or annuity benefits upon the lives of children between the ages of two and eighteen years at next birthday, for whose support and maintenance a member of such society is responsible. Any such society may at its option, organize and operate branches for such children and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society. The total benefits payable as above provided shall in no case exceed the following amounts at ages at next birthday at time of death, respectively, as follows: two, thirty-four dollars; three, forty dollars; four, forty-eight dollars; five, fifty-eight dollars; six, one hundred forty dollars; seven, one hundred sixty-eight dollars; eight, two hundred dollars; nine,

two hundred forty dollars; ten, three hundred dollars; eleven, three hundred eighty dollars; twelve, four hundred sixty dollars; thirteen to fifteen, five hundred twenty dollars; and sixteen to eighteen years, where not otherwise authorized by law, six hundred dollars.

#### **Medical examinations—Contributions.**

§ 2. No benefit certificate as to any child shall take effect until after medical examination or inspection by a licensed medical practitioner, in accordance with the laws of the society, nor shall any such benefit certificate be issued unless the society shall simultaneously put in force at least five hundred such certificates, on each of which at least one assessment has been paid, nor where the number of lives represented by such certificate falls below five hundred. The death benefit contributions to be made upon such certificate shall be based upon the "standard industrial mortality table" or the "English life table number six" and a rate of interest not greater than four per cent per annum, or upon a higher standard; *provided*, that contributions may be waived or returns may be made from any surplus held in excess of reserve and other liabilities as provided in the by-laws; *and, provided further*, that extra contributions shall be made if the reserves hereafter provided for become impaired.

#### **Reserve required.**

§ 3. Any society entering into such insurance agreements shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the society for computing contributions as provided in section two, and the funds representing the benefit contributions and all accretions thereon shall be kept as separate and distinct funds, independent of the other funds of the society, and shall not be liable for nor used for the payment of the debts and obligations of the society other than the benefits herein authorized; *provided*, that a society may provide that when a child reaches the minimum age for initiation into membership in such society, any benefit certificate issued hereunder may be surrendered for cancellation and exchanged for any other form of certificate issued by the society, provided that such surrender will not reduce the number of lives insured in the branch below five hundred, and upon the issuance of such new certificate any reserve upon the original certificate herein provided for shall be transferred to the credit of the new certificate. Neither the person who originally made application for benefits on account of such child, nor the beneficiary named in such original certificate, nor the person who paid the contributions, shall have any vested right in such new certificate, the free nomination of a beneficiary under the new certificate being left to the child so admitted to benefit membership.

#### **Separate financial statements.**

§ 4. An entirely separate financial statement of the business transactions and of assets and liabilities arising therefrom shall be made in its annual report to the insurance commissioner by any society availing itself of the provisions hereof. The separation of assets, funds and liabilities

required hereby shall not be terminated, rescinded or modified, nor shall the funds be diverted for any use other than as specified in section three, as long as any certificates issued hereunder remain in force, and this requirement shall be recognized and enforced in any liquidation, reinsurance, merger or other change in the condition of the status of the society.

**Specified payments.**

§ 5. Any society shall have the right to provide in its laws and the certificate issued hereunder for specified payments on account of the expense or general fund, which payments shall or shall not be mingled with the general fund of the society as its constitution and by-laws may provide.

**Continuation of certificate.**

§ 6. In the event of the termination of membership in the society by the person responsible for the support of any child, on whose account a certificate may have been issued, as provided herein, the certificate may be continued for the benefit of the estate of the child, provided the contributions are continued, or for the benefit of any other person responsible for the support and maintenance of such child, who shall assume the payment of the required contributions.

**BANK DEPOSITS OF MARRIED WOMEN AND MINORS.**

[Amendment to Bank Act of 1909, approved June 3, 1915; Statutes 1915, p. 1139.]

§ 16. When any deposit with a bank shall be made by or in the name of any married woman or minor, the same shall be held for the exclusive right and benefit of such depositor, and free from the control or lien of all other persons, except creditors, and shall be paid, together with the dividends, if any, and interest, if any, thereon to the person in whose name deposits shall have been made, and the receipt or acquittance of such minor shall be a valid and sufficient release and discharge for such deposit, or any part thereof, to the bank. When any deposit with a bank shall be made by any person in trust for another, and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to such bank, in the event of the death of the trustee, the same or any part thereof, together with the dividends or interest, if any, thereon, may be paid to the person for whom the deposit was made. When a deposit with a bank shall be made by any person in the names of such depositor and another person or persons, and in form to be paid to either or the survivor or survivors of them, such deposit thereupon and any additions thereto made by either of such persons upon the making thereof, shall become the property of such person as joint tenants, and the same, together with all interest thereon, shall be held for the exclusive use of the persons so named, and may be paid to either during the lifetime of all or any or to the survivor or survivors after the death of

one or more of them, and such payments and the receipt or acquittance of the one to whom such payment is made shall be valid and sufficient release and discharge to said bank for all payments made on account of such deposit.

The surviving husband or wife, or the guardian of the estate of any insane or incompetent husband or wife of any deceased person, or, if no husband or wife is living, then the children or the guardian of the estates of any minor or insane or incompetent children of said decedent, or, if no children are living, then the father or mother or guardian of the estate of any insane or incompetent father or mother of such decedent, and if neither the father or mother is living, then the brothers and sisters or the guardian of the estates of any minor or insane or incompetent brothers and sisters of such decedent, may, without procuring letters of administration, collect of any bank any sum which said deceased may have left on deposit in such bank at the time of his or her death; *provided*, such deposit shall not exceed the sum of one thousand dollars. Any bank, upon receiving an affidavit stating that said depositor is dead, and that affiant is the surviving husband or wife or the guardian of the estate of an insane or incompetent surviving husband or wife, as the case may be, of said decedent, or stating that decedent left no husband or wife, and that affiant is, or affiants are, the children, or the guardians of the estates of the minor, insane or incompetent children, as the case may be, of said decedent, or stating that decedent left neither husband, wife nor children, and that affiant is the father or mother, or the guardian of the estate of the insane or incompetent father or mother, as the case may be, of said decedent, or stating that the decedent left neither husband, wife, children, father nor mother, and that affiants are the brothers and sisters or the guardians of the estates of the minor, insane or incompetent brothers and sisters, as the case may be, of said decedent, and that the whole amount that decedent left on deposit in any and all banks of deposit of this state, does not exceed the sum of one thousand dollars, may pay to said affiant or affiants, any deposit of said decedent, if the same does not exceed the sum of one thousand dollars, and the receipt of such affiant is sufficient acquittance therefor; *provided, however*, that whenever the affidavit herein mentioned is made by any guardian it shall be accompanied by a certified copy of the letters of guardianship issued to such guardian attached to a certificate of the clerk of the court having appointed such guardian to the effect that the said letters of guardianship have not been revoked.

## EXEMPTION OF WIDOW'S SHARE OF COMMUNITY PROPERTY FROM INHERITANCE TAX.

[Section 1, (2), of the Inheritance Tax Act of 1917, approved May 23, 1917; Statutes 1917, p. 880.]

### Exemption of community property.

(2) The words "estate" and "property" as used in this act shall be taken to mean the real and personal property or interest therein of the testator, intestate, grantor, bargainor, vendor, or donor passing or transferred to individual legatees, devisees, heir, next of kin, grantees, donees, vendees, or successors, and shall include all personal property within or without the state; *provided*, that for the purpose of this act the one-half of the community property which goes to the surviving wife on the death of the husband, under the provisions of section one thousand four hundred two of the Civil Code, shall not be deemed to pass to her as heir to her husband, but shall, for the purpose of this act, be deemed to go, pass, or be transferred to her for valuable and adequate consideration and her said one-half of the community shall not be subject to the provisions of this act; *provided, further*, that in case of a transfer of community property from the husband to the wife, within the meaning of subdivision (3) or (5) of section two of this act, one-half of the community property so transferred shall not be subject to the provisions of this act; *and, provided, further*, that the presumption that property acquired by either husband or wife after marriage is community property, shall not obtain for the purpose of this act as against any claim by the state for the tax hereby imposed; but the burden of proving such property to be community property shall rest upon the person claiming the same to be community property.

## PROTECTION OF IMMIGRANTS.

[Sections from act creating a commission of immigration and housing, approved June 12, 1913; amended, 1915; Statutes 1913, p. 608; 1915, p. 848.]

### Enforcement of compulsory school attendance laws.

§ 6. The commission shall co-operate with the proper authorities and organizations, federal, state, county, municipal and private, with the object in view of bringing to the immigrant the best opportunities for acquiring education and citizenship. To that end it shall procure from, or with the consent of, the federal authorities, complete lists giving the names, ages and destination within the state of all immigrant children of school age, and such other facts as will tend to identify them, and shall forthwith deliver copies of such lists to the superintendent of public instruction or the several boards of education and school boards in the respective localities within the state to which said children shall be destined, to aid in

the enforcement of the provisions of the education law relative to the compulsory attendance at school of children of school age. The commission shall further co-operate with the superintendent of public instruction and with the several boards of education in the state to ascertain the necessity for and the extent to which instruction should be imparted to immigrants within the state and to devise methods for the proper instruction of adult and minor aliens in the English language and other subjects; and in respect to the duties and rights of citizenship and the fundamental principles of the American system of government; and shall co-operate with the proper authorities and with private agencies to put into operation practical devices for training for citizenship and for encouraging naturalization. It shall be the aim to communicate this instruction to the immigrant as soon after his arrival as is practicable. The commission shall co-operate with the proper authorities to extend this education for both children and adults to labor camps and other localities from which the regular schools are not easily accessible. The commission in co-operation with the proper authorities and organizations shall encourage the establishment of playgrounds and other recreational activities, and also the establishment of settlements and social centers in cities and towns.

#### **Enforcement of child labor laws, etc.**

§ 8. With the further object in view of bringing to the immigrant the best protection the state can afford, it shall be the duty of the commission to call to the attention of the proper authorities any violations it may discover of \* \* \* the child labor laws, the employment of women, factory inspection laws, \* \* \* laws pertaining to the white slave traffic. \* \*

### **RED-LIGHT ABATEMENT ACT.**

*An act declaring all buildings and places nuisances wherein or upon which acts of lewdness, assignation or prostitution are held or occur or which are used for such purposes, and providing for the abatement and prevention of such nuisances by injunction and otherwise.*

[Approved April 7, 1913; Statutes 1913, p. 20.]

#### **Definitions.**

§ 1. The term "person" as used in this act shall be deemed and held to mean and include individuals, corporations, associations, partnerships, trustees, lessees, agents and assignees. The term "building" as used in this act shall be deemed and held to mean and include so much of any building or structure of any kind as is or may be entered through the same outside entrance.



**Place of prostitution a nuisance.**

§ 2. Every building or place used for the purpose of lewdness, assignation or prostitution and every building or place wherein or upon which acts of lewdness, assignation or prostitution are held or occur, is a nuisance which shall be enjoined, abated and prevented as hereinafter provided, whether the same be a public or private nuisance.

**Action to abate.**

§ 3. Whenever there is reason to believe that such nuisance is kept, maintained or exists in any county or city and county, the district attorney of said county or city and county, in the name of the people of the State of California, must, or any citizen of the state, resident within said county or city and county, in his own name may, maintain an action in equity to abate and prevent such nuisance and to perpetually enjoin the person or persons conducting or maintaining the same, and the owner, lessee or agent of the building, or place, in or upon which such nuisance exists, from directly or indirectly maintaining or permitting such nuisance.

**Temporary writ.**

§ 4. The complaint in such action must be verified unless filed by the district attorney. Whenever the existence of such nuisance is shown in such action to the satisfaction of the court or judge thereof, either by verified complaint or affidavit, the court or judge shall allow a temporary writ of injunction to abate and prevent the continuance or recurrence of such nuisance.

**Action to have precedence. Failure to prosecute.**

§ 5. The action when brought shall have precedence over all other actions, excepting criminal proceedings, election contests and hearings on injunctions, and in such action evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of said nuisance. If the complaint is filed by a citizen, it shall not be dismissed by the plaintiff or for want of prosecution except upon a sworn statement made by the complainant and his attorney, setting forth the reasons why the action should be dismissed, and the dismissal ordered by the court. In case of failure to prosecute any such action with reasonable diligence, or at the request of the plaintiff, the court, in its discretion, may substitute any such citizen consenting thereto for such plaintiff. If the action is brought by a citizen and the court finds there was no reasonable ground or cause for said action, the costs shall be taxed against such citizen.

**Violation of injunction.**

§ 6. Any violation or disobedience of either any injunction or order expressly provided for by this act shall be punished as a contempt of court by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than one month nor more than six months, or by both such fine and imprisonment.

### **Order of abatement.**

§ 7. If the existence of the nuisance be established in an action as provided herein, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all fixtures, musical instruments and movable property used in conducting, maintaining, aiding or abetting the nuisance, and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released, as hereinafter provided. While such order remains in effect as to closing, such building or place shall be and remain in the custody of the court. For removing and selling the movable property, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution, and for closing the premises and keeping them closed, a reasonable sum shall be allowed by the court.

### **Proceeds of sale. Building may be sold.**

§ 8. The proceeds of the sale of the property, as provided in the preceding section, shall be applied as follows:

- 1st. To the fees and costs of such removal and sale;
- 2d. To the allowances and costs of so closing and keeping closed such building or place;
- 3d. To the payment of plaintiff's costs in such action;
- 4th. The balance, if any, shall be paid to the owner of the property so sold.

If the proceeds of such sale do not fully discharge all such costs, fees and allowances, the said building and place shall then also be sold under execution issued upon the order of the court or judge and the proceeds of such sale applied in like manner.

### **Owner, not guilty of contempt, may pay costs.**

§ 9. If the owner of the building or place has not been guilty of any contempt of court in the proceedings, and appears and pays all costs, fees and allowances which are a lien on the building or place and files a bond in the full value of the property, to be ascertained by the court, with sureties, to be approved by the court or judge, conditioned that he will immediately abate any such nuisance that may exist at such building or place and prevent the same from being established or kept thereat within a period of one year thereafter, the court, or judge thereof, may, if satisfied of his good faith, order the premises, closed under the order of abatement, to be delivered to said owner, and said order of abatement canceled so far as the same may relate to said property. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty or liability to which it may be subject by law.

## INTOXICATING LIQUORS AT SCHOOLS.

*An act prohibiting the sale, gift or delivery of intoxicating liquor at public schoolhouses and prescribing penalties for the violation of any provision hereof.*

[Approved April 1, 1915; Statutes 1915, p. 20.]

### **Sale of liquors at public schools prohibited.**

§ 1. Any person, firm, association or corporation that sells, gives or delivers to any person any intoxicating liquor at any public schoolhouse or upon any portion of the grounds thereof, is guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars or by imprisonment in a county jail not to exceed six months, or by both such fine and imprisonment.

### **Penalty.**

§ 2. Any person, firm, association or corporation convicted of the violation of any provision of this act shall, for a period of one year from and after such conviction, be barred from having or receiving any privilege accorded by that certain act entitled "An act providing for the free use of all public schools and property, and to establish a civic center at each and every public schoolhouse in the State of California, and to provide for the maintenance, conduct and management of the same," approved June 6, 1913.

## GUARDIANSHIP OF ORPHANS.

*An act to provide for the appointment of guardians of children maintained in any orphans' home or orphan asylum in this state.*

[Approved March 23, 1893; Statutes 1893, p. 203.]

§ 1. When any orphan or half orphan has been maintained in any orphans' asylum or orphans' home in the State of California for more than one year, the managers of said home or asylum shall be entitled to the guardianship of such child in preference to any other person; *provided, however,* that such managers shall not be appointed guardian of a minor child over fourteen years of age without its consent, nor shall this act preclude the court of competent jurisdiction from inquiring into the fitness of such managers for the guardianship of such children; but in exercising the power of the court to appoint guardians for minors, the managers of the home having the care of such child for more than one year shall, if there be no special reasons to the contrary in any particular case, be preferred in the guardianship of the person of the child to the parent so leaving the child, without good cause therefor being shown, under the care of said home for the said time.

§ 2. This act shall take effect immediately.

## CONTROL OF CHILDREN'S HOME FINDING SOCIETIES.

*An act providing for the supervision and control by the state board of charities and corrections of the placing of dependent children into homes and for the supervision of all societies or organizations engaged in such work and known as children's home finding societies.*

[Approved April 24, 1911; Statutes 1911, p. 1087.]

§ 1. It shall hereafter be unlawful for any organization, society or persons to engage in the work of placing dependent children into homes in this state without first obtaining a permit therefor, duly executed in writing, from the state board of charities and corrections.

§ 2. The said state board of charities and corrections may investigate, or cause to be investigated, the books, records, and methods of such organizations, societies, or persons, and the disposition of the children coming into their custody; and it may make such rules and regulations as it may deem best for the government and regulation of such societies or persons, and may require such reports as it may desire.

§ 3. The said state board of charities and corrections is hereby authorized and empowered to withdraw and cancel any permit to engage in the work of placing children into homes for any failure to observe the rules and regulations established for their government, or the failure to report as required, or for any failure on their part to perform their work as required by the best interests of the state, but no permit shall be canceled or withdrawn without due notice and hearing.

§ 4. It is hereby made a misdemeanor for any person or persons, either as individuals or officers of any association or society, to engage in the work of placing children into homes, or the soliciting of funds therefor, in this state without a permit duly executed in writing by the state board of charities and corrections, authorizing said persons or such association or society to engage therein, or to engage in such work after any permit has been canceled.

§ 5. This act shall not be construed as applying to any regularly established orphan home or any officer or official thereof acting for or on behalf of such home receiving aid from the state for the care of orphans, half orphans or abandoned children in any effort such institution or its officers may make to procure the adoption into homes or any officer or official thereof acting for or on behalf of such home of any such children.

§ 6. This act shall take effect immediately.

therein, enforceable and collectible by execution issued by order of the court.

**"Person" defined.**

§ 8. The term "person," as used in this act, shall be held to mean and include individuals, corporations, associations, partnerships, trustees, lessees, agents and assignees.

**NURSING.**

*An act to promote the better education of nurses and the better care of the sick in the State of California, to provide for and regulate the examination and registration of graduate nurses, and to provide for the issuance of certificates of registration as registered nurses to qualified applicants by the state board of health, and to repeal an act approved March 20, 1905, entitled, "An act to promote the better education of the practice of nursing the sick in the State of California, to provide for the issuance of certificates of registration as a registered nurse, to qualified applicants of the board of regents of the University of California, and to provide penalties for violation thereof."*

[Approved June 12, 1913; amended 1915, 1917; Statutes 1913, p. 613; 1915, pp. 21, 603; 1917, p. 44.]

**Registration of graduate nurses. Director's duties. Annual report.**

§ 1. Within thirty days after this act takes effect the state board of health shall establish and maintain a department of examination and registration of graduate nurses, as hereinafter provided. The state board of health shall appoint a director, whose salary shall be fixed by the board, and said director shall have been graduated from an accredited training school for nurses as defined in this act, and shall be duly registered under the provisions of this act. Said director shall visit and inspect all training schools in this state, subject to the provisions of this act, at such times as may be required by the secretary of the board and shall perform all duties required by this act and such other duties as may be required by the state board of health in order to carry out the objects and provisions of this act. Lists of accredited training schools for nurses and a register of the names of all nurses duly registered under this act shall be prepared and kept by the department. An annual report shall be prepared and filed before January first of each year. [Amended, Statutes 1915, p. 603.]

**Examinations. Fee.**

§ 2. Examinations as provided for in this act shall be held at least every six months at such times and places as the board shall direct and according to the rules and regulations of said board. Public notice of such examination shall be given by publishing the same at least two weeks prior to the date of each examination in two or more papers of general circulation, and one nursing journal, to be selected by said board; all

of said papers and said nursing journal shall be published within the State of California. Upon filing application for examination each applicant shall pay an examination fee of ten dollars, which shall in no case be returned to the applicant. No further fee shall be required for registration. [Amended, Statutes 1915, p. 21.]

#### **How examinations shall be held.**

§ 3. Examinations may be conducted by the state board of health or by a special committee of three examiners to be appointed by the board at least thirty days prior to each examination, under such rules and regulations as may be prescribed by said board. If such special committee of examiners be appointed, they shall prepare and submit to the board, at least ten days prior to the examination, all questions for such examination, which may be approved, rejected, changed or altered in any manner by and at the discretion of said board. Said examiners shall be paid their necessary traveling expenses and such compensation as shall be fixed by the state board of health. All expenses of conducting said examinations shall be paid from the fund hereinafter mentioned in the manner therein provided. If the examinations be conducted by said examiners, they shall mark all examination papers of applicants and render to the board, within ten days thereafter, a report of the same in such form as may be prescribed by the board, which may change the grading on any paper. The board shall finally pass or reject all applicants, and its actions shall be final and conclusive and not subject to review by any court or other authority. The board shall issue to each successful applicant a certificate provided for in this act. [Amended, Statutes 1915, p. 21.]

#### **Registration after July 1, 1914.**

§ 4. On and after July 1, 1914, no person shall be eligible for examination or for registration as a registered nurse who shall not furnish satisfactory evidence of having been graduated from an accredited training school for nurses. An accredited training school for nurses within the meaning of this act is hereby defined to be a school for the training of nurses attached to or operated in connection with a hospital or hospitals giving a general training and a systematic theoretical and practical course of instruction covering a period of at least three years. All applicants for examination must furnish satisfactory evidence of good moral character, and of having complied with the provisions of this act relative to qualifying.

#### **False representation in examination.**

§ 4½. Any person who shall wilfully make any false representation or who shall impersonate any other person or permit or aid in any manner any person to impersonate him in connection with any examination or application for examination or registration or request to be examined or registered, such person shall be guilty of a misdemeanor. [Enacted, Statutes 1917, p. 45.]

**Registered nurse.**

§ 5. A nurse who has received his or her certificate according to the provisions of this act, shall be styled and known as a registered nurse, and shall be entitled to place the initials "R. N." after his or her name.

**Nursing by friends not affected.**

§ 6. This act shall not be construed to affect or apply to the gratuitous nursing of the sick by friends or members of the family, or to any person nursing the sick for hire who does not in any way assume to be, or practice as a registered nurse.

**Unlawful to pretend to be "R. N."**

§ 7. It shall be unlawful for any person not holding a certificate of registration issued by the state board of health to use the title "registered nurse" or the letters "R. N.," in connection with, or following his or her name, or to impersonate in any manner, or pretend to be, a "registered nurse."

**Registration of nurses from other states.**

§ 8. The board, upon written application, and upon the receipt of ten dollars as registration fee, shall issue a certificate of registration without examination to any applicant who has been duly registered as a registered nurse under the laws of another state or foreign country having requirements equivalent to those provided for by this act.

**Revocation of certificate.**

§ 9. The board shall have the power to revoke any certificate of registration for dishonesty, intemperance, immorality, unprofessional conduct, or any habit rendering a nurse unfit or unsafe to care for the sick, after a full and fair investigation of the charges preferred against the accused.

**Penalty.**

§ 10. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and shall upon conviction be fined not less than ten dollars nor more than one hundred dollars for the first offense and not less than fifty dollars nor more than five hundred dollars for each subsequent offense.

**Monthly report of receipts.**

§ 11. Within ten days after the beginning of each month the secretary of the state board of health shall report to the controller the amount and source of all collections made under the provisions of this act, and at the same time all such amounts shall be paid into the state treasury and shall be placed to the credit of the special fund to be known as the fund for examination and registration of nurses; *provided*, that whenever and as often as there is in the state treasury to the credit of the fund for the examination and registration of nurses, funds in excess of ten thousand dollars the same may be invested by the state board of control in the same

manner that the funds of the state school land fund are invested and the interest upon such investment when collected shall be placed to the credit of the fund for the examination and registration of nurses. All amounts paid into this fund shall be held subject to the order of the state board of health, to be used only for the purpose of meeting necessary expenses in the performance of the purposes of and the duties imposed by this act. Claims against the fund shall be audited by the state board of health and by the board of control and shall be paid by the state treasurer upon warrants drawn by the state controller. [Amended, Statutes 1917, p. 45.]

### PREVENTION OF BLINDNESS IN INFANTS.

*An act to prevent blindness from ophthalmia neonatorum; to vest certain powers and duties in the state board of health and health officers; to impose certain duties upon physicians, midwives, nurses, and other persons; and to provide for the enforcement of this act, and the repeal of Chapter XIV statutes of 1897 entitled "An act to regulate medical practice, to prevent blindness in infants," and other acts in conflict herewith.*

[Approved June 11, 1915; Statutes 1915, p. 1431.]

#### **Ophthalmia neonatorum defined.**

§ 1. Any condition of the eye, or eyes, of any infant in which there is any inflammation, swelling or redness in either one or both of eyes of any such infant, either apart from or together with any unnatural discharge from the eye, or eyes, of any such infant, at any time within two weeks after its birth, shall, independent of the nature of the infection, for the purpose of this act, be called ophthalmia neonatorum.

#### **Duty of physicians, etc., to report cases.**

§ 2. It shall be the duty of any physician, surgeon, obstetrician, midwife, nurse, maternity home or hospital of any nature, parent, relative, and any person or persons attendant upon, or assisting in any way whatsoever, either the mother or child, or both, at childbirth, in all cases where such child shall develop within two weeks after its birth ophthalmia neonatorum, and such person shall know the same to exist, to report the case within twenty-four hours after knowledge of the same, in such form as the state board of health shall direct, to the local health officer of the county or municipality within which the mother of any such infant may reside.

#### **Duty of local health officer.**

§ 3. It shall be the duty of the local health officer :

1. To investigate each case as shall be filed with him in pursuance with this act, and all other such cases as may come to his attention.



2. To report all cases of ophthalmia neonatorum coming to his knowledge, and the result of all such investigations as he shall make to the state board of health, in such form as said board shall direct.

3. To conform to such rules and regulations as the state board of health shall promulgate for the purpose of carrying out the provisions of this act.

#### **Duty of state board of health.**

§ 4. It shall be the duty of the state board of health:

1. To enforce the provisions of this act.
2. To promulgate such rules and regulations as the state board of health may deem necessary to properly carry out the provisions hereof.
3. To provide for the gratuitous distribution of a scientific prophylactic for ophthalmia neonatorum, together with proper directions for the use and administration thereof, to all physicians, midwives and such other persons as may be lawfully engaged in the practice of obstetrics or assisting at childbirths.
4. To print and publish such further advice and information concerning the dangers of ophthalmia neonatorum and the necessity for prompt and effective treatment thereof, as said board may deem necessary.
5. To furnish without cost copies of this law to all physicians, midwives and such other persons as may be lawfully engaged in the practice of obstetrics or assisting at childbirths.
6. To keep a proper record of any and all cases of ophthalmia neonatorum as shall be filed in their office in pursuance with this law, and as may come to their attention in any way, and to constitute such records a part of the biennial report to the governor and the legislature.
7. To report any and all violations of this act as may come to their attention to the district attorney of the district wherein any violation of any provision of this act may have been committed, for the purpose of prosecution.

#### **Duty of maternity homes.**

§ 5. It shall be the duty of all maternity homes, hospitals, and similar institutions wherein childbirths shall occur, to keep a record of all cases of ophthalmia neonatorum occurring or discovered therein. Such records shall be in the form and contain the matters which the state board of health shall prescribe.

#### **Penalty.**

§ 6. The failure of any person mentioned in section two hereof to report, or the failure of any maternity home, hospital, or similar institution, to record any and all cases of ophthalmia neonatorum, as herein directed, or the failure or refusal of any person or institution, herein mentioned, to obey any rule or regulation adopted by the state board of health under this act, shall constitute a misdemeanor, and upon conviction thereof shall be fined, for the first offense not to exceed fifty dollars; for a second offense not to exceed one hundred dollars; and for a third offense, and thereafter not to exceed two hundred dollars for each violation; and after

the third conviction, if the person be a physician, midwife, or other person professionally employed, such conviction shall be a sufficient cause for the revocation of the license of such person by the board which granted the same. One-half of all fines collected hereunder shall go to the county wherein the prosecution was had, and the remaining one-half thereof shall go into the state treasury and constitute a special fund to be expended by the state board of health for the purposes of carrying out the provisions of this act. Any case of ophthalmia neonatorum, or the resultant blindness therefrom, upon which the accused may have been in attendance as hereinbefore set forth, shall be prima facie evidence of knowledge of such case by the accused.

### **Repealed.**

§ 7. Chapter XIV, Statutes of 1897, entitled "An act to regulate medical practice, to prevent blindness in infants," approved February 17, 1897, and all other acts and parts of acts in conflict herewith, are hereby repealed.

## **REGISTRATION OF BIRTHS.**

[Sections from act creating a bureau of vital statistics of the state board of health, approved May 18, 1915; amended, 1917; Statutes 1915, p. 575; 1917, p. 717.]

### **Filing certificate of birth.**

§ 13. Within thirty-six hours after the date of each birth, there shall be filed with the local registrar of the district in which the birth occurred a certificate of such birth, which certificate shall be upon the form adopted by the state board of health with a view to procuring a full and accurate report with respect to each item of information enumerated in section fourteen of this act.

In sparsely-settled districts or where there is no direct mail communication with the county seat a reasonable time shall be fixed by the local registrar.

In each case where a physician, or midwife, or person acting as midwife, was in attendance upon the birth, it shall be the duty of such physician to file in accordance herewith the certificate herein contemplated.

In case no physician was in attendance it shall be the duty of the midwife or person acting as midwife to file such certificate.

In every case it shall be the duty of the father or mother of the child, the householder or owner of the premises where the birth occurred or the manager or superintendent of the public or private institution where the birth occurred, each in the order named, within ten days after the date of such birth, to report to the local registrar the fact of such birth. In such case and in case the physician, midwife, or person acting as midwife, in attendance upon the birth is unable, by diligent inquiry, to obtain any item or items of information contemplated in section fourteen of this act, it shall then be the duty of the local registrar to secure from the person so reporting, or from any other person having the required knowledge,

such information as will enable him to prepare the certificate of birth herein contemplated, and it shall be the duty of the person reporting the birth or who may be interrogated in relation thereto to answer correctly and to the best of his knowledge all questions put to him by the local registrar which may be calculated to elicit any information needed to make a complete record of the birth as contemplated by said section fourteen, and it shall be the duty of the informant as to any statement made in accordance herewith to verify such statement by his signature, when requested so to do by the local registrar. [Amended, Statutes 1917, p. 722.]

#### **Items in certificate of birth.**

§ 14. The certificate of birth shall contain the following items, which are hereby declared necessary for the legal, social, and sanitary purposes subserved by registration records:

(1) Place of birth, including state, county, township or town, village or city. If in a city, the ward, street and house number; if in a hospital or other institution, the name of the same to be given, instead of the street and house number.

(2) Full name of child. If the child dies without a name, before the certificate is filed, enter the words "died unnamed." If the living child has not yet been named at the date of filing certificate of birth, the space for "full name of child" is to be left blank, to be filled out subsequently by a supplemental report, as hereinafter provided.

(3) Sex of child.

(4) Whether a twin, triplet, or other plural birth. A separate certificate shall be required for each child in case of plural births.

(5) For plural births, number of each child in order of birth.

(6) Date of birth, including the year, month, and day.

(7) Full name of father.

(8) Residence of father (giving city and state of residence).

(9) Color or race of father.

(10) Age of father at last birthday, in years.

(11) Birthplace of father; at least state or foreign country, if known.

(12) Occupation of father. The occupation to be reported if engaged in any remunerative employment, with the statement of (a) trade, profession, or particular kind of work; (b) general nature of industry, business or establishment in which employed (or employer).

(13) Maiden name of mother.

(14) Residence of mother, (giving city and state of residence).

(15) Color or race of mother.

(16) Age of mother at last birthday, in years.

(17) Birthplace of mother; at least state or foreign country, if known.

(18) Occupation of mother. The occupation to be reported if engaged in any remunerative employment, with the statement of (a) trade, profession, or particular kind of work; (b) general nature of industry, business or establishment in which employed (or employer).

(19) Number of children born to this mother, including present birth.

(20) Number of children of this mother living.

(21) The certification of attending physician or midwife as to attendance at birth, including statement of year, month, day (as given in item seven), and hour of birth, and whether the child was born alive or stillborn. This certification shall be signed by the attending physician or midwife, with date of signature and address; if there is no physician or midwife in attendance, then by the father or mother of the child, householder, owner of the premises, or manager or superintendent of public or private institution where the birth occurred, or other competent person, whose duty it shall be to notify the local registrar of such birth, as required by section thirteen of this act.

(22) Exact date of filing in office of local registrar, attested by his official signature, and registered number of birth, as hereinafter provided. [Amended, Statutes 1917, p. 723.]

#### **Report of child's given name.**

§ 15. When any certificate of birth of a living child is presented without the statement of the given name, then the local registrar shall make out and deliver to the parents of the child a special blank for the supplemental report of the given name of the child, which shall be filled out as directed, and returned to the local registrar as soon as the child shall have been named.

### **MATERNITY HOSPITALS.**

*An act to provide for the licensing, inspecting and regulating of maternity hospitals or lying-in asylums, and institutions, boarding houses and homes for the reception and care of children, by the state board of charities and corrections, and providing a penalty for the violation of the provisions of this act.*

[Approved April 23, 1913; Statutes 1913, p. 73.]

#### **License for maternity hospitals.**

§ 1. No person, association or corporation shall hereafter maintain or conduct in this state any maternity hospital or lying-in asylum where females may be received, cared for or treated during pregnancy, or during or after delivery; or any institution, boarding house, home or other place conducted as a place for the reception and care of children, without first obtaining a license or permit therefor, in writing, from the state board of charities and corrections, such permit or license once issued to continue until revoked for cause after a hearing.

#### **Rules for government.**

§ 2. The state board of charities and corrections is hereby authorized to issue licenses or permits to persons or associations to conduct maternity hospitals, lying-in asylums, or homes for children, as provided in section one of this act, and to prescribe the conditions upon which such licenses or permits shall be granted, and such rules and regulations as it may

deem best for the government and regulation of maternity hospitals, lying-in asylums and institutions, boarding houses, or homes for the reception and care of children, and said board is further authorized, by one or more of its members, secretary, or duly authorized representative, to inspect and report upon the conditions prevailing in all such institutions.

#### **Penalty.**

§ 3. Any person who maintains or conducts, or assists in maintaining or conducting as manager or officer, any maternity hospital, lying-in asylum, or any institution, boarding house, home or other place conducted as a place for the reception and care of children, or who keeps at any such place any child under the age of twelve years, not his relative, apprentice or ward, without first having obtained a license or permit therefor in writing, as provided in section one of this act, shall be punished upon conviction by imprisonment in the county jail for not more than one year, or by a fine not to exceed five hundred dollars, or both a fine and imprisonment may be imposed at the discretion of the court.

### **LICENSING OF MIDWIVES.**

[Sections from amendments to the State Medical Practice Act, approved April 11, 1917; Statutes 1917, p. 93.]

#### **Certificate required.**

§ 8. Four forms of certificates shall be issued by said board [of medical examiners] under the seal thereof and signed by the president and secretary; \* \* \* fourth, a certificate to practice midwifery which shall be in the form designated by the board and in conformity with this act. Such certificate shall entitle the holder thereof to attend cases of childbirth. As used in this act, the practice of midwifery means the furthering or undertaking by any person to assist a woman in normal childbirth, but it does not include at any childbirth the use of any instrument, except such instrument as is necessary in severing the umbilical cord, nor the assisting of childbirth by any artificial, forcible or mechanical means, nor the performance of any version, nor the removal of adherent placenta, nor the administering, prescribing, advising or employing in childbirth of any drug, other than a disinfectant or cathartic. The provisions hereof shall not authorize any midwife to practice medicine and surgery. A "reciprocity certificate" shall also be issued under the provisions hereinafter specified. Any of these certificates on being recorded in the office of the county clerk, as hereinafter provided, shall constitute the holder thereof a duly licensed practitioner in accordance with the provisions of his certificate.

#### **Testimonials and diploma.**

§ 9. Every applicant must file with the board, at least two weeks prior to the regular meeting thereof, satisfactory testimonials of good moral character, and a diploma or diplomas issued by some legally chartered

school or schools approved by the board, the requirements of which school or schools shall have been at the time of granting such diploma or diplomas in no degree less than those required under this act, or satisfactory evidence of having possessed such diploma or diplomas, and must file an affidavit stating that he is the person named in said diploma or diplomas, and that he is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination without fraud or misrepresentation; \* \* \* *provided, further*, that an applicant for a certificate to practice midwifery, must show that the applicant has attended a one-year course in a hospital recognized as reputable by the board, and that a course of instruction in anatomy, physiology, obstetrics and hygiene and sanitation as set forth in section ten hereof has been taken, covering a period of one year; *provided, further*, that in lieu thereof, an applicant who can submit satisfactory proof of the possession of a diploma from a recognized reputable hospital, and who in addition thereto has attended a course of instruction in the subjects enumerated in section ten hereof and satisfactory proof that such instruction has been taken covering a period of at least three months; and *provided, further*, that in lieu thereof an applicant may present proof satisfactory to the board that the applicant has taken a course of instruction with the minimum requirements as designated in section ten of any school or schools approved by the board as giving a course of instruction in said subjects for a certificate to practice medicine and surgery; \* \* \*

The preliminary or basic educational qualifications for an applicant to practice midwifery in this state shall be the completion of one year of high school work or its equivalent, and after October, 1918, the presentation to the board of a diploma from a California high school giving a full four years' standard high school course or its equivalent.

#### Minimum requirements.

§ 10. Applicants for any form of certificate shall file satisfactory evidence of having pursued in any legally chartered school or schools, approved by the board, a course of instruction covering and including the following minimum requirements:

*	*	*	*	*	*	*
For a Certificate to Practice Midwifery.						
Group 1.	150 hours.					
Anatomy	-----				75	hours
Physiology	-----				75	hours
Group 2.	265 hours.					
Hygiene and sanitation	-----				100	hours
Obstetrics	-----				165	hours
Total	-----				415	hours

In the course of study herein outlined the hours required shall be actual work in the classroom, laboratory, clinic or hospital, and at least eighty

(80) per cent of actual attendance shall be required; *provided*, that the hours herein required in any subject need not exceed seventy-five (75) per cent of the number specified, but that the total number of hours in all the subjects of each group shall not be less than the total number specified for such group.

### Examination.

#### § 11. \* \* \*

All applicants for a certificate to practice midwifery must pass an examination in the following subjects:

1. Anatomy and physiology.
2. Obstetrics.
3. Hygiene and sanitation.

All examinations shall be practical in character and designed to ascertain the applicant's fitness to practice his profession, and shall be conducted in the English language, and at least a portion of the examination in each of the subjects shall be in writing. The board in its discretion upon the submission of satisfactory proof from the applicant that he is unable to meet the requirements of the examination in the English language, may allow the use of an interpreter either to be present in the examination room or to thereafter interpret and transcribe the answers of the applicant. The selection of such interpreter is to be left entirely to the board and the expenses thereof to be borne by the applicant, the payment therefor to be made before such examination is held. There shall be at least ten questions on each subject, the answers to which shall be marked on a scale of zero to one hundred. Each applicant must obtain no less than a general average of seventy-five per cent, and not less than sixty per cent in any two subjects; *provided*, that any applicant shall be granted a credit of one per cent upon the general average for each year of actual practice since graduation; *provided, further*, that \* \* \* an applicant for a certificate to practice midwifery obtaining seventy-five per cent in one subject, shall be subsequently reexamined in those subjects only in which he failed, and without additional fee.

\* \* \* \* \*

The examination papers shall form a part of the records of the board, and shall be kept on file by the secretary for a period of one year after each examination. In said examination the applicant shall be known and designated by number only, and the name attached to the number shall be kept secret until after the board has finally voted upon the application. The secretary of the board shall in no instance participate as an examiner in any examination held by the board. All questions on any subject in which examination is required under this act shall be provided by the board of medical examiners upon the morning of the day upon which examination is given in such subject, and when it shall be shown that the secretary or any member of the board has in any manner given information in advance of or during examination to any applicant it shall be the duty of the governor to remove such person from the board of medical examiners, or from the office of secretary.

All certificates issued hereunder must state the extent and character of practice which is permitted thereunder and shall be in such form as shall be prescribed by the board.

### **Persons already practicing.**

#### **§ 12. \* \* \***

Any person who at any time within one hundred eighty days from and after the passing of this act shall pay to said board the registration fee of twenty dollars as herein provided, and furnish to said board satisfactory proof that such applicant has been actually engaged in the practice of midwifery in the State of California for at least a period of one year, and that such applicant possesses a good moral character and competency in the practice of midwifery, shall be entitled to practice midwifery, and said board must issue to such applicant a midwifery certificate.

The actual practice referred to herein shall consist in satisfactory proof that the applicant has attended at least twenty-five cases of labor and has had the care of at least twenty-five mothers and new-born infants during the lying-in period. The lying-in period referred to herein shall consist of a period of ten days following delivery. The good moral character referred to herein shall be evidenced by the certificates of two physicians and surgeons or practitioners licensed under this or any preceding medical practice act of this state, and the certificate of one layman, preferably a clergyman, priest, rabbi or recognized minister of the gospel. The competency referred to herein shall be evidenced by affidavits of reputable citizens preferably physicians of the vicinity wherein the applicant has recently resided. The board, however, may disregard such certificates and in its discretion may give an oral, practical or clinical examination. The proof of the attendance and completion of the twenty-five cases of labor referred to herein shall be evidenced, if the board shall so require of any applicant, by the submission of the name of the mother, and a reference to the birth certificate required under the law. The board shall have the power to disregard the certificates of moral character referred to herein and may order that an investigation under the direction of the board be held upon the moral character of the applicant. If the said investigation should result in an adverse report to applicant, the applicant shall be entitled to a hearing before said board and after such hearing the board shall be the judges of the moral fitness of the applicant to receive a certificate to practice midwifery. In the event that a certificate to practice midwifery shall not be granted under the provisions of this section, the applicant will be entitled to a refund of ten dollars. \* \* \*

### **Revocation of certificate.**

#### **§ 14. \* \* \***

Thirteenth. The certificate issued herein for the practice of midwifery may be revoked when it appears to the satisfaction of the board that in any case or cases that the licentiate may have treated, that due caution and circumspection was not used or that the holder of said certificate in



its treatment of any case or cases had not used proper aseptic and antiseptic precautions.

Fourteenth. The certificate to practice midwifery herein may be revoked upon conviction for the violation of any health statute, order or ordinance or for the neglect or refusal to comply with the health rules and regulations of any state, county, city and county, city or township.

Fifteenth. The certificate issued herein for the practice of midwifery may be revoked for the treatment by any midwife in any case of labor in which case there is a complicated vertex presentation in which said licentiate did not call or attempt to call a licentiate licensed to practice a system including the practice of obstetrics under this act or any preceding medical practice act in this state.

Sixteenth. The certificate issued herein for the practice of midwifery may be revoked for a failure to refer to a licentiate under this act or any preceding act in the State of California licensed to practice a system including obstetrics, a case which during pregnancy has, or develops any of the following conditions: a contracted pelvis or other deformity that will interfere with labor; bleeding from the uterus; swelling of the face and hands; excessive vomiting; persistent headache; dimness of vision; convulsions; or for failure to call or summons a physician if any of the following conditions exist or develop at the beginning of or during labor: Complicated presentation of a vertex (head); convulsions, excessive bleeding; prolapse of the cord; a swelling or tumor that obstructs the birth of the child; signs of exhaustion or collapse; unduly prolonged labor; or the failure to refer to a licentiate in this act or any preceding act in the State of California licensed to practice a system including obstetrics, a case, which during the lying-in period, develops the following conditions: Convulsions; excessive bleeding; foul smelling discharge (lochia); persistent rise of temperature to one hundred one degrees Fahrenheit for twenty-four hours; swelling and redness of the breasts; severe chill (rigor) with rise of temperature; inability to nurse the child; or for a failure to refer to a licentiate under this act or any preceding act in the State of California licensed to practice a system including obstetrics, a case where the child has or develops any of the following conditions: Deformities or malformations or injuries; inability to suckle or nurse; inflammation around or discharge from the navel; swelling and redness of the eyelids with a discharge of pus from the eyes (ophthalmia neonatorum); bleeding from the mouth, navel or bowels, inability to urinate.

Seventeenth. The certificate issued herein for the practice of midwifery may be revoked for the treatment by the said midwife licentiate known as the introduction of the hand into the vagina or uterus to remove placenta or membranes.

Eighteenth. The certificate issued herein for the practice of midwifery may be revoked for the failure to have the following equipment (in each case): Nail brush; wooden or bone nail cleaner; jar of green or soft castile soap; rubber gloves; tube of sterile vaseline; clinical thermometer; agate or glass douche reservoir; two rounded vaginal douche nozzles; two rectal nozzles, large and small; one soft rubber catheter; blunt scissors for cutting

cord; either lysol, carbolic acid or bichloride of mercury tablets; boric acid powder; one per cent solution of nitrate of silver; medicine dropper; narrow tape or soft twine for tying cord; absorbent cotton (preferably in one-quarter pound packages); no other instruments are to be used, owned or possessed by a midwife.

#### **Recording of certificate.**

§ 15. Every person holding a certificate under the laws of this state authorizing him to practice any system or mode of treating the sick or afflicted in this state must have it recorded in the office of the county clerk of the county or counties in which the holder of said certificate is practicing his profession, and the fact of such recordation shall be endorsed on the certificate by the county clerk recording the same. Any person holding a certificate as aforesaid, who shall practice or attempt to practice any system or mode of treating the sick or afflicted in this state, without having first filed his certificate with the county clerk, as herein provided, shall be deemed guilty of a misdemeanor and shall be punished as hereinafter designated in this act.

### **JUVENILE COURT LAW.**

*An act to be known as the juvenile court law, and concerning persons under the age of twenty-one years; and in certain cases providing for their care, custody and maintenance; providing for the probationary treatment of such persons, and for the commitment of such persons to the Whittier State School and the Preston School of Industry, the California School for Girls, and other institutions; establishing probation officers and a probation committee to deal with such persons and fixing the salary thereof; providing for the establishment of detention homes for such persons; fixing the method of procedure and treatment or commitment where crimes have been committed by such persons; providing for the punishment of those guilty of offenses with reference to such persons, and defining such crimes; and repealing the juvenile court law approved March 8, 1909, as amended by an act approved April 5, 1911, and as amended by an act approved June 16, 1913, and all amendments thereof and all acts or parts of acts inconsistent herewith.*

[Approved June 5, 1915; amended 1917; Statutes 1915, p. 1225; 1917, pp. 1002, 1022.]

#### **Short title. Persons affected.**

§ 1. This act shall be known as the "juvenile court law" and shall apply to any person under the age of twenty-one years:

1. Who is found begging, receiving or gathering alms, or who is found in any street, road or public place for the purpose of so doing, whether actually begging or doing so under the pretext of selling or offering for sale any article or articles, or of singing or playing on any musical instrument, or of giving any public entertainment or accompanying or being used in aid of any person so doing; or

2. Who has no parent or guardian; or who has no parent or guardian willing to exercise or capable of exercising proper parental control; or who has no parent or guardian actually exercising such proper parental control and who is in need of such control; or

3. Who, being a minor, is destitute, or whose father, said person being a minor, does not or can not provide for said person the necessities of life, and who has no other means, through his mother or otherwise, of obtaining such necessities.

4. Whose home, said person being a minor, by reason of neglect, cruelty or depravity on the part of his parents or either of them, or on the part of his guardian, or on the part of the person in whose custody or care he may be, is an unfit place for said person; or

5. Who is found wandering and either has no home or no settled place of abode or no visible means of subsistence or no proper guardianship; or

6. Who is a vagrant or who frequents the company of criminals, vagrants or prostitutes, or persons so reputed; or who is in any house of prostitution or assignation; or

7. Who habitually visits without parent or guardian any public billiard room or public pool room, or any saloon or any place where any spirituous vinous or malt liquors are sold, bartered, exchanged or given away; or

8. Who habitually uses intoxicating liquors or habitually smokes cigarettes, or habitually uses opium, cocaine, morphine or other similar drug without the direction of a competent physician; or

9. Who, being a minor, persistently or habitually refuses to obey the reasonable and proper orders or directions of, or who is beyond the control of, his parent, parents, guardian or custodian; or

10. Who is an habitual truant from school within the meaning of any law of this state; or

11. Who is leading, or from any cause is in danger of leading, an idle, dissolute, lewd or immoral life; or

12. Who is insane, or feeble-minded, or so far mentally deficient that the parents or guardian are unable to exercise proper parental control over said person, or whose mind is so far deranged or impaired as to endanger the health, person, or property of himself or others.

13. Who violates any law of this state or any ordinance of any town, city, county, or city and county of this state defining crime.

14. Who shall be declared free from the custody and control of his parents, as more fully defined in section fifteen of this act.

#### **Persons judged wards of court.**

§ 2. When any person under the age of twenty-one years, alleged to come within the provisions of any of the subdivisions one to thirteen inclusive of section one of this act, shall be found by said court or judge to come within the terms of any of said subdivisions as alleged, the court shall adjudge said person to be a ward of the juvenile court and shall in its judgment make a finding of the facts upon which the court exercises its jurisdiction over such person as a ward of the juvenile court; and the court shall thereupon make such order or orders, in accordance with said

findings, as may be necessary for the care of said ward of the juvenile court; *provided, however*, that no merely unfortunate person shall be so committed or placed as to be brought into direct contact or personal association with wayward persons of evil influence. All commitment and recommitment orders shall be in writing, and shall be signed by the judge of the juvenile court.

**Any person may file petition.**

§ 3. Any person may file with the clerk of the superior court a petition showing that there is within the county, or residing therein, or, in the case of any alleged violation within said county of any law or ordinance, that there then was within said county, a person coming within the provisions of section one or section fifteen of this act, and praying that the superior court deal with such person as provided in this act. Such petition shall be verified, and shall contain a statement of the facts bringing said person within the provision of either of said sections, and the names and residences, if known to said petitioner, of the parent or parents or guardian of said person, or if there be neither parent nor guardian residing within the county, or in the case of a person coming within the provisions of subdivision fourteen of section one or of section fifteen, if there be no parent residing within the state or if his place of residence be not known to said petitioner, then the name and residence, if known to said petitioner, of some relative of said person, residing within said county, or in the case of a person coming within the provisions of subdivision fourteen of section one or of section fifteen, then the name of some relative residing within said state. Either the judge of said court or the clerk thereof may set the time for the hearing of said petition.

**No filing fee.**

§ 3a. There shall be no fee for filing such petition mentioned in the foregoing section. Nor shall any fees be charged by any officer for his services in filing, or serving papers, nor for the performance of any duty enjoined upon him by this act, except where the sheriff transports a person to a state institution.

**Probation officer notified.**

§ 3b. It shall be the duty of the clerk of any court before which any person alleged to come within the provisions of sections one or fifteen of this act is brought, to notify the probation officer of the county thereof immediately upon the filing of the petition.

**Citation to appear.**

§ 4. Upon the filing of the petition provided for in section three hereof, a citation shall issue, requiring the person or persons having the custody or control of the person alleged to come within the provisions of any of subdivisions one to thirteen inclusive of section one of this act, to appear with said person so alleged at the time and place stated in the

citation. Service of said citation must be made at least twenty-four hours before the time stated therein for such appearance. The parents or guardian of said person so alleged, if residing within the county in which the court sits, and if their places of residence be known to the petitioner, or if there be neither parents nor guardian so residing, or if their places of residence be not known to the petitioner, then some relative of said person so alleged, if any there be residing within said county, and if his residence and relationship to said person so alleged be known to the petitioner, shall be notified of the proceeding by service of citation requiring him or them to appear at the time and place stated in said citation. Service of citation may be waived by any person by a voluntary appearance entered in the minutes of the court or by a written waiver of service of citation filed with the clerk of the court at or prior to the hearing. In any case, the judge presiding in the juvenile court may appoint some suitable person to act in behalf of said person so alleged, and may order such further notice of the proceedings to be given as he may deem proper.

#### **Failure to appear.**

§ 4a. If any person cited, as herein provided, shall fail, without reasonable excuse, to appear and abide by the order of the court or to bring said person so alleged, if so required in the citation, such failure shall constitute a contempt of said court, and may be punished as provided for in other cases of contempt of court.

#### **When citation can not be served.**

§ 4b. In case such citation can not be served, or the party served, fails to obey the same, or in any case in which it shall be made to appear to the court that said citation will probably be ineffective, a warrant of arrest shall issue on the order of the court, either against the parent or guardian, or the person having the custody of said person so alleged, or with whom the said person so alleged may be, or against the said person so alleged himself, or any or all said persons; or if there be no person to be served with citation, as above provided, a warrant of arrest may be issued immediately against the said person so alleged. On the return of the citation or other process, or as soon thereafter as possible, the court shall proceed to hear and dispose of the case in a summary manner. Until the final disposition of any case, said person so alleged may be retained by the person having charge of said person, or may be kept, upon the order of the court, in some suitable place, provided by the county, or city and county, or may be held otherwise, as the court may direct.

#### **Prosecution under general laws.**

§ 4c. If upon the hearing, or at any time thereafter, said court shall determine that any person alleged to come within the provisions of subdivision thirteen of section one of this act, is not a fit and proper subject to be dealt with under the provisions of this act, said court may dismiss the petition therein, and direct that said person be prosecuted under the general law.

**Persons under eighteen.**

§ 4d. No person under the age of eighteen years at the time of the commission of an alleged offense or crime shall be prosecuted for crime until the matter has first been submitted to the juvenile court by petition as hereinbefore provided, or by certificate of the lower court as hereinafter provided.

**Order is not conviction.**

§ 5. In no case shall an order adjudging a person to be a ward of the juvenile court be deemed to be a conviction of crime.

**Persons under eighteen not to be tried before justice. In case of persons under twenty-one. Statutes of limitations suspended.**

§ 6. Whenever a deposition or complaint shall be filed in any court other than a superior court, charging a person with a crime and it shall be suggested or shall appear to the judge, justice or recorder before whom such person is brought that the person charged was at the date the offense is alleged to have been committed under the age of eighteen years, said judge, justice or recorder, shall immediately suspend all proceedings against such person on said charge and examine into the age of such person, and if, from such examination, it shall appear to the satisfaction of said judge, justice or recorder, that such person was at the date the offense is alleged to have been committed under the age of eighteen years, he shall forthwith certify to the juvenile court of his county (a) that said person (naming him) is charged with such crime (briefly stating its nature); (b) that said person appears to be under the age of eighteen years, giving date of birth when known, and (c) that proceedings have been suspended against such person on such charge by reason of his age, with the date of such suspension; and immediately thereupon all proceedings against the said person on said charge shall be suspended until said juvenile court shall issue its mandate, as hereinafter provided, directing the court before which said charge was made to proceed with the examination into or trial thereof, and the court so suspending its proceedings shall forthwith cause such person to be taken before the juvenile court of the county for consideration and proceedings under this act. To such certification said judge, justice or recorder, or the clerk of said court shall attach a certified copy of said original deposition or complaint, and when such person shall be brought before the judge of the juvenile court, said judge shall direct the probation officer to file a petition as provided in section three of this act, except that said petition need not be verified; and said probation officer shall forthwith comply with such directions. Pending such hearing said judge may admit said person to bail or otherwise provide for his temporary custody in any manner provided herein for the care of a ward of the juvenile court. The proceedings thereafter shall be the same as in the case of a verified petition; *provided, however*, that if said judge of the juvenile court shall after such investigation decide that the person was at the time said offense was alleged to have been committed

of the age of eighteen years or more, such determination shall be conclusive and he shall immediately issue his mandate directing the court before which such charge is pending to proceed therewith, and upon receipt of such mandate said court shall proceed with the examination or trial of said charge as though no suspension thereof had taken place; except that if said judge of the juvenile court shall find that the person so charged is under the age of twenty-one years, and a fit subject for consideration under the provisions of this act, he may make such order or orders hereunder as he may deem best in relation to such person; but if such judge shall at any time conclude that such person is not a fit subject for further consideration under this act, he may sit as a committing magistrate and hold a preliminary examination if such person is charged with a felony, or he may remand such person to the court in which said person is charged with said offense for further proceedings on said charge, and upon receipt of the mandate of said juvenile court, or the judge thereof, the court before which said charge is then pending shall be vested with full authority to proceed with the examination or trial thereof.

All statutes of limitations relating to the charge so pending against such person shall be suspended as to said person and charge from the issuance by said judge, justice or recorder of his certificate hereinbefore provided for until said juvenile court, or judge thereof, shall issue its mandate remanding such person for further proceedings as aforesaid; and all statutes of limitations relating to any charge, made in any court, against any person under the age of twenty-one years, shall be suspended as to such charge and person whenever, and as long as, such person is before the juvenile court for consideration under the provisions of this act, or is detained by virtue of any commitment issued hereunder and unrevoked; but if said person shall be discharged by the juvenile court as reformed, such order of discharge shall constitute a bar to any further proceedings in any court against said person upon said charge.

#### **Persons under twenty-one charged with felony.**

§ 7. Whenever any person over the age of eighteen years and under the age of twenty-one years is accused of a felony or misdemeanor by indictment or information therefor in the superior court of the county wherein the crime was committed, the judge may in his discretion, with the consent of the accused, or upon his request, arrest said proceeding at the time of arraignment or at any time previous to the impanelment of a jury, except where the crime charged is a capital offense, or any attempt to commit a capital offense, and may proceed to investigate the charge against the defendant, and all the facts and circumstances necessary to determine the proper disposition to be made of said person, and shall determine whether such person shall be dealt with as a ward of the juvenile court under the provisions of this act. If the court is satisfied upon such investigation that said person should be declared a ward of the juvenile court and should be dealt with under this act, it may make such order or orders as herein provided for the disposition of such wards. If such person thereafter proves not to be amenable to the discipline of the

state school to which he may be committed, and the trustees thereof shall determine that said person should be committed to a state penitentiary, such person shall be returned to the committing court, and thereafter proceedings shall be had upon the indictment or information commencing at the point at which proceedings were arrested; and said person shall be tried for the offense alleged in the information, and if convicted shall be sent to the penitentiary for such time as the court may determine or otherwise dealt with in accordance with the law for dealing with persons convicted of a felony. If no request is made by the defendant for proceedings under this statute, or if the defendant desires trial by jury, or if the judge declines to consent to the application of the defendant for proceedings under this statute, said cause shall proceed in the ordinary manner up to the verdict of guilty or not guilty, as the case may be.

If said person is convicted, the court may thereafter receive such evidence as may be offered, touching the question as to whether or not said person should be dealt with as a ward of the juvenile court in the manner hereinbefore provided in the case of the application and consent of the accused before trial, and may make such order of probation or commitment to said state schools, and may from time to time modify said probation orders, as is herein provided in the case of persons adjudged wards of the juvenile court. If such person during the period of his commitment to said state institution, proves to be incorrigible or not amenable to the discipline of such institution, and it shall be deemed advisable in the judgment of the trustees of such institution that said person be sent to a state prison, then said person shall be returned to the superior court in which the verdict was rendered, for sentence, and thereupon the court shall pronounce judgment.

**Period of commitment and place. Court may admonish and dismiss.**

**Wards under eight or having contagious disease. History of ward.**

§ 8. When any person alleged to come within the provisions of any of subdivisions one to thirteen inclusive of section one of this act shall be adjudged by said court or judge to come within the terms of any of said subdivisions, and adjudged to be a ward of the juvenile court, the court may make an order committing said person for such time as the court may deem fit, but not beyond the time when such ward of the juvenile court shall reach the age of twenty-one years, either (a) to the home and care of some reputable person of good moral character, or (b) to the care of some association, society or corporation embracing within its objects the purpose of caring for or obtaining homes for such persons, willing and able to receive and care for said ward, or (c) to the care of the probation officer, to be boarded out or placed in some suitable family home, in case provision is made by voluntary contribution, or otherwise, for the payment of the board of said ward until suitable provision may be made for said ward in a home without such payment, said ward to be subject to the supervision of the probation officer and the further order of



the court; or (d) on probation to the care of the probation officer, said ward to remain in the home of said ward, or in any other fit home in which the court may order the probation officer to place said ward, subject to the visitation of the probation officer, said ward to report to the probation officer as often as may be required, and to be subject to be returned to the court for further proceedings whenever such action may appear necessary or desirable; or (c) the court may, if said ward of the juvenile court be a boy, commit him to the Preston School of Industry, or to the Whittier State School, during his minority; *provided*, that no boy under the age of sixteen years shall be committed to the Preston School of Industry, nor any boy over the age of sixteen years to the Whittier State School, or if a girl, commit her to the California School for Girls, until twenty-one years of age; or may commit such person to any other state or county institution that is now established or may hereafter be established for the purpose of caring for and training persons that come within the provision of this act; *provided, however*, that before conveying any such person to any such institution it shall be ascertained from the superintendent thereof whether such person can be received; *provided, however*, that such commitment under this act to either the Preston School of Industry or the Whittier State School shall permit the transfer of any such boy from one institution to the other upon the agreement thereto by the superintendents of such institutions.

When any person alleged to come within the provisions of any of subdivisions one to thirteen inclusive of section one of this act shall be found by said court to come within said provisions, said court may at its discretion admonish said person and dismiss said petition.

No ward who is under the age of eight years and no ward who is suffering from any contagious, infectious, or other disease which would probably endanger the lives or health of the other inmates of said state schools shall be committed thereto. No person under the age of fourteen years at the time of the commission of any offense with which he may be charged shall ever be sent to a state prison unless he has first been committed to the Whittier State School, or the Preston School of Industry, and has there proved to be incorrigible or not amenable to the discipline of said school. No ward shall be committed to said state schools unless the judge of said court shall be fully satisfied that the mental and physical condition and qualifications of said ward are such as to render it probable that such ward will be benefited by the reformatory educational discipline of such schools.

Accompanying the commitment papers, the court must send to the superintendent of the state institution to which said person is committed a summary of all the facts in the possession of the court, covering the history of the ward committed, including a statement of the mental and physical condition of said ward.

**Order may be modified. Parole system not affected.**

§ 9. Any order made by the court in case of any person subject to the jurisdiction of the court under the provisions of any of subdivisions one to thirteen inclusive of section one of this act may at any time be changed, modified or set aside as to the judge may seem meet and proper; *provided, however*, that nothing in this act contained shall be deemed to interfere with the system of parole and discharge that is now or may hereafter be provided by law, or by rule of the board of trustees of the Whittier State School, the Preston School of Industry or the California School for Girls, or any similar state institution or institutions, respectively, for the parole and discharge of wards of the juvenile court committed to the said schools or to any similar state institutions hereafter created, or with the management of the said schools, save that the court committing a ward to any of said schools may thereafter change, modify or set aside said order of commitment upon ten days' notice of the hearing of the application therefor being served by United States mail upon the superintendent of the said school to which said person has previously been committed, and providing that the court shall not then change, modify or set aside said order without due consideration of the effect thereof upon the discipline and parole system of said school or institution.

**Notice to probation officer.**

§ 9a. No order of court or modification thereof shall be made in any juvenile court proceedings concerning any ward of the juvenile court either in chambers, or otherwise, without notice of the application therefor having first been given by the judge or the clerk of said court to the probation officer.

**Taking ward from parent.**

§ 9b. No ward of the juvenile court as defined in this act shall be taken from the custody of his parent or legal guardian, without the consent of such parent or guardian unless the court shall find such parent or guardian to be incapable of providing or to have failed or neglected to provide proper maintenance, training and education for said person; or unless said person has been tried on probation in said custody and has failed to reform, or unless said person has been convicted of crime by a jury, or unless the court shall find that the welfare of said person requires that his custody be taken from said parent or guardian.

**Incorrigible persons. Judge to sit as committing magistrate.**

§ 10. Should it develop, either at the time of their presentation, or after having become an inmate thereof, that any person, who has been committed to either of such institutions is an improper person to be there retained or so incorrigible or so incapable of reformation under the discipline of the school to which such person may be committed as to render his or her retention detrimental to the interests of the school, the superintendent may, with the approval of the board of trustees of such institution,

return such person to the committing court. And in the event of such return, the transportation of such person shall be made in the same manner, and the compensation therefor, if any, shall be paid as is provided for in the execution of an order of commitment to such institution.

When any ward of the juvenile court under subdivision thirteen of section one of this act shall have been accused of a felony and no indictment or information shall have been filed, and said ward shall have been committed to either of said schools and shall there prove to be incorrigible or not amenable to the discipline of the said school, and shall be returned to the custody of the juvenile court, which in such case the trustees of said school are hereby authorized to do, it shall be the duty of the judge of said court to sit as a committing magistrate and hold the preliminary examination of such person, and if upon said hearing he shall determine that there is probable cause to believe that the said person has committed the offense charged in the petition theretofore filed in said court, he shall hold such person to answer to the superior court, and thereupon the usual proceedings shall be had for the trial of said case in the superior court after the filing of the information in pursuance to said order of said judge sitting as a committing magistrate, and said person shall be tried by court and jury in the usual manner for the trial of a felony.

**Support of ward paid to probation officer. Extent of parents' control.**

§ 11. Any order providing for the care and custody of a ward of the juvenile court may provide that the expense of support and maintenance of said ward shall be paid by the parent, parents, guardian of said ward or other person liable therefor, after citation thereto, or from the earnings, property or estate of said ward, and in such case shall state the amount to be so paid. If it is found, however, that the parent, parents, guardian of said ward, or other person liable therefor, are unable to pay or that the earnings, property, or estate, of said ward is insufficient to pay the whole expense of support and maintenance of said ward, the court may direct such additional amount as may be necessary for the maintenance and support of said ward to be paid from the county treasury of the county for the support and maintenance of said ward, the amount so ordered to be paid from the treasury of said county not to exceed, in the case of any one ward, the sum of eleven dollars in any one month. No order for payment shall be made in a sum in excess of the actual cost of supporting and maintaining said ward. No order for the payment of all or part of the expense of support and maintenance of a ward of the juvenile court from the county treasury shall be effective for more than six months, and upon said original and all subsequent hearings the case shall be continued on the calendar, but in no instance to exceed six months.

The judge of the juvenile court may provide that the amount, or any part of the amount, so paid by the parents, parent, guardian or other person liable therefor or from the earnings, property or estate of said ward, shall be paid to the probation officer, to be by him paid as the court shall direct, first, to reimburse the person, association or institution that under

court order is caring for and maintaining said ward and after such reimbursement to reimburse the county. For such purpose said probation officer shall keep suitable books and accounts and shall give and keep suitable receipts and vouchers, and if such funds shall be by said probation officer kept in a bank, said bank shall be designated by the judge of said court. The auditor of said county annually in the month of January shall audit such books and accounts and shall make a report thereon to the judge of said court, and to the supervisors of such county prior to the thirty-first day of said month of January.

In all cases the court may determine whether or not the parent, parents or guardian shall exercise any control of said ward and shall define the extent thereof. Any disobedience or interference with the custody and control of said ward shall constitute a contempt of court.

It shall be the duty of the probation officer to see that such parent, guardian, or other person liable therefor, comply with such orders, or upon three months failure to make such payment to report such failure to said court. The court may thereafter set aside, change or modify any order herein provided for.

#### **Jurisdiction retained until ward is twenty-one.**

§ 12. The court shall retain the jurisdiction of any person who is found to be a ward of the juvenile court until such ward attains his majority, or if a girl, until she attains the age of twenty-one years, unless she is married with the consent of the court entered upon the minutes of the court, or until said court is satisfied that said ward has fully reformed or that further direction and supervision under the provisions of this act are unnecessary or inadvisable for said ward's reformation.

#### **Transfer of cases.**

§ 13. Whenever a petition has been filed in the juvenile court of a county other than that of the residence of said ward, the entire case may be transferred at any time to the juvenile court of the county wherein said person resides and thereafter the juvenile court in the latter county shall have jurisdiction of the case. The expense of the transfer of said person shall be borne by the parent, parents, or guardian of the person so transferred or shall be paid out of the earnings, property or estate of said person, or if the parent, parents or guardian are unable to pay the same or if the earnings, property or estate of said person is insufficient to pay the same the court shall order the same to be paid from the county treasury of the county ordering the transfer. Whenever a case shall be transferred thereunder, the order of transfer shall recite (a) each and all the findings, orders or modification of orders that may have been made in said case, and (b) that said person resides in or has removed to the county to which said matter has been transferred and (c) to said order of transfer shall be attached a certified copy of the original petition in said matter. Such transfer shall be accompanied by a summary of all the facts in the possession of the court or probation officer covering the history of said person.

**Detention pending hearing. No commitment to jail.**

§ 14. In the case of a person alleged to come within the provisions of section one of this act, the juvenile court, pending the hearing, at any time before the person is adjudged a ward or otherwise disposed of, may order that said person be detained in any detention home provided for that purpose by any county, or said person may otherwise be temporarily provided for as to the court may seem fit, in any manner provided herein for the care of a ward of the juvenile court; *provided, further*, that should the legislative body of the county provide a suitable place for the detention of wards of the juvenile court, such wards may be committed thereto for a definite period to be specified in such order, at the end of which time such wards shall be brought before the court for further order of court. The court may thereafter set aside, change or modify said order and provide for a further detention in said place. No court, judge, magistrate or peace officer shall commit a person under sixteen years of age to any jail or prison, before trial and conviction, or detain such person therein, but if any such person is not released pending such hearing, he may be committed to the care and custody of a sheriff, constable or other peace officer, who shall keep such person in a detention home or some other suitable place outside of the enclosure of any jail or prison, as the court may direct. When any person under sixteen years of age shall be sentenced to confinement in any institution to which adult convicts or prisoners are sentenced or confined, it shall be unlawful to confine such person in the same room, yard or enclosure with such adult convicts or prisoners, or to permit such person to come or remain in contact with such adult convicts or prisoners.

**Persons free from parents' control.**

§ 15. Within the meaning of this act the words "persons who should be declared free from the custody and control of his parents" shall include any person:

1. Who has been left in the care and custody of another by his parent or parents without any provision for his support, or without communication from such parent or parents, for the period of one year with the intent to abandon said person; such failure to provide, or such failure to communicate for the period of one year shall be presumptive evidence of the intent to abandon; such person shall be deemed and called an abandoned person; or

2. Who has been cruelly treated or neglected by his parent or parents; *provided*, that in either instance, said person shall have been a ward of the juvenile court and the parents deprived of his custody because of such cruel treatment or neglect for the period of one year continuously immediately prior to the filing of a petition praying that he be declared free from the custody and control of his parents; or

3. Whose parent or parents are habitually intemperate; *provided*, that said person shall have been a ward of the juvenile court and the parents deprived of his custody because of such intemperance for the period of

one year, continuously immediately prior to the filing of a petition praying that he be declared free from the custody and control of his parents.

**Citation to issue upon filing of petition.**

§ 15a. Upon the filing of a petition, as provided in section three of this act, alleging that there is within the county or residing therein a person who should be declared free from the custody and control of his parents, as defined in this act, and praying that the superior court deal with said person as provided in this act, a citation shall issue, requiring the person or persons having the custody or control of said person or the person or persons with whom said person may be, to appear with said person at a time and place stated in the citation. Service of such citation must be made at least ten days before the time stated therein for such appearance. The parent or parents of said person, if residing within the State of California, and if their place of residence be known to the petitioner, or, if there be no parent so residing, or if the place of residence of such parent or parents be not known to the petitioner, then some relative of said person, if any there be residing within the state, and if his residence and relationship to said person be known to the petitioner, shall be notified of the proceedings by service of citation requiring him or them to appear at the time and place stated in such citation. Service of such citations must be made at least ten days before the time stated therein for such appearance.

**When parents reside outside of state.**

§ 15b. If the parent or parents of said person reside outside of the State of California, or if their places of residence be not known to the petitioner, the petitioner or his agent, or attorney, shall make and file an affidavit wherein there shall be stated the names of the parent or parents who reside outside of the state and their places of residence, if known to the petitioner, and the names of the parent or parents residing in or out of the state whose places of residence are unknown to the petitioner and thereupon the judge of the juvenile court shall make an order directing a citation requiring him or them to appear at the time and place stated in such citation, to be served upon the parent or parents residing out of the state whose places of residence are known to the petitioner and upon the parent or parents residing in or out of the state whose places of residence are unknown to the petitioner by publication in some newspaper of general circulation printed and published in the county in which the court sits, and if there be no such paper in such county, then in some adjoining county to be designated by the judge of the juvenile court, which publication shall be once a week for four successive weeks.

**Citation mailed.**

§ 15c. Within ten days after the making of said order, a copy of the citation, properly addressed and with the postage thereon fully prepaid, shall be mailed to the parent or parents who reside outside of the state at their places of residence, if known to the petitioner.

### **Service of citation.**

§ 15*d*. When publication is ordered, personal service of a copy of the citation out of the state shall be equivalent to publication and deposit in the post office. In either case, the service of the citation shall be complete upon the completion of the publication and the time stated for the appearance of the parent or parents in a citation so served shall be not less than thirty days after the completion of such service.

### **Failure to appear, contempt.**

§ 15*e*. In any case the judge of the juvenile court may appoint some suitable party to act in behalf of said person and may order such further notice of the proceedings to be given as he may deem proper. If any party, cited as herein provided, shall fail without reasonable cause to appear and abide by the order of the court, or to bring said person if so required in the citation, such failure shall constitute a contempt of said court. In case such citation can not be served, or the party served fails without reasonable cause to obey the same, a warrant of arrest shall issue on the order of the court, either against the parent or the custodian of said person or with whom the said person may be, or against the said person himself, or any or all said persons; or if there be no party to be served with citation as above provided, a warrant of arrest may be issued immediately against the said person.

### **Hearing of case.**

§ 15*f*. On the return of the citation or other process, or as soon thereafter as may be, the court shall proceed to hear and dispose of the case, after full and careful consideration of all the evidence presented and with due regard to the legitimate rights and claims of the parent or parents of said person, and with due regard to any and all ties of blood or affection, but with the dominant purpose of serving the best interests of said person.

### **Order depriving parent of control.**

§ 15*g*. Whenever the procedure laid down in section three and sections fifteen *a*, fifteen *b*, fifteen *c*, fifteen *d*, fifteen *e*, or fifteen *f* has been followed, the juvenile court shall be empowered to make a final written order signed by the judge presiding in said court, judicially depriving the parents of the custody and control of a person who should be declared free from the custody and control of his parents; *provided*, that nothing in this section shall be construed to impair the right of the court to make orders or commitments under any other section of this act. Any final order made and entered by the court under the provisions of this section, shall be conclusive and binding upon the person declared free from the custody and control of his parents, upon such parents, and upon all other persons who have been served with citation by publication or otherwise as herein provided. After making such final order, the court shall have no power to set aside, change or modify the same; *provided*, that nothing in this section shall be construed to impair the right of appeal.

### **Superior court known as "juvenile court."**

§ 16. The superior court in every county and city and county in this state shall exercise the jurisdiction conferred by this act, and while sitting in the exercise of its said jurisdiction shall be known and referred to as the "juvenile court." In counties or cities and counties having more than one judge of the superior court, the judges of such court shall annually, in the month of January, designate one or more of their number, whose duty it shall be to hear all cases coming under this act; *provided*, that nothing in this section contained shall be construed in conflict with article VI, section VI of the constitution of the State of California. The orders and findings, if any, of the superior court in all cases coming under the provisions of this act, shall be entered in a suitable book or books or other form of written record, to be kept for that purpose, and known as the "juvenile court record," and the court, when acting under this act, shall be called the "juvenile court." All cases coming under the provisions of this act shall be heard at a special or separate session of the court, and no other matter shall be heard at such session, nor shall there be permitted to be present at such session, except as a witness in said matter, any person on trial or awaiting trial, or under accusation of crime, who does not come under the provisions of this act.

### **Private hearing.**

§ 16a. Any person alleged or adjudged to come within any of subdivisions one to thirteen inclusive of section one of this act shall be entitled to have any proceeding concerning such person, heard privately, and upon the request of said person, or either of his parents, or guardian, such hearing shall be had privately in the manner provided by law for private hearings at preliminary examinations.

### **Probation committee.**

§ 17. The judge of the superior court in and for each county, or city and county, of the state, and in counties where there is more than one judge of said court, the judge of the superior court in said county who has been designated the judge of the juvenile court shall, by order entered in the minutes of the court, appoint seven citizens of good moral character, to be known as the "probation committee," and shall fill all vacancies occurring in such committee. The clerk of said court shall immediately notify each person appointed on said committee, and thereupon said person shall appear before the judge of the said court and qualify by taking an oath, which shall be entered in said juvenile court record, to perform faithfully the duties of a member of such probation committee.

### **Term of office. Vacancy. Removal. Meetings.**

§ 17a. The members of such probation committee shall hold office for four years, and until their successors are appointed and qualify; *provided*, that of those first appointed, one shall hold office for one year, two for two years, two for three years, and two for four years, the terms for which the respective members shall hold office to be determined by lot



as soon after their appointment as may be. When any vacancy occurs in any probation committee by expiration of the term of office of any member thereof, his successor shall be appointed to hold office for the term of four years; when any vacancy occurs for any other reason the appointee shall hold office for the unexpired term of his predecessor. Any member of the probation committee may be removed for cause at any time by an affirmative vote of four members of said committee at a meeting called for the special purpose of considering the question of said removal and the subsequent written approval of the judge of the juvenile court filed with the clerk of the juvenile court, said written approval to be filed within thirty days after the written report of said committee has been received by said judge. Written notice as to said special meeting shall be served on each of the members of said committee at least ten days prior to the day set therefor and shall specify the purpose thereof.

**Examination of societies. Supervision of wards. Control of detention home.**

§ 17b. The juvenile court, or the judge thereof, may at any time and upon request of the county board of supervisors shall require said probation committee or the probation officer to examine into the qualifications and management of any society, association or corporation, other than a state institution, receiving, or applying for, any ward of the juvenile court and to report thereon to the court; *provided*, that nothing in this section shall be construed as giving any probation officer or probation committee any power to enter any institution without the consent of such institution but in the event that such consent is refused, commitments thereto shall not be made. It shall be the duty of each probation committee to prepare each year one or more reports in writing on the qualifications and management of all societies, associations, corporations and institutions, except state institutions, applying for or receiving any ward of the juvenile court from the courts of their respective counties, and in such report said committee may make such suggestions or comments as to them may seem fit; such report shall be filed for the information of said court with the clerk of the juvenile court appointing such committee. The probation committee shall also make to the court an annual report to be filed as a public document prior to the first day of December, copies of which shall be filed with the county board of supervisors and the state board of charities and corrections. It shall be the duty of the probation committee to exercise a friendly supervision and visitation over the wards of the juvenile court when so directed by the court, to furnish the court information and assistance whenever required upon the request of the court and from time to time, to advise and recommend to the court any change or modification of the order made in the case of a ward of the juvenile court as may be for the best interests of such person. Upon request of the judge any member of the probation committee shall investigate the case of an alleged ward of the juvenile court coming under the provisions of this act, and render a report thereon to the judge. The probation committee

shall also have the control and management of the internal affairs of any detention home or branch detention home heretofore or hereafter established by the county board of supervisors; and it shall be the duty of said board of supervisors to provide for the payment of such employees as may be needed in the efficient management of such detention home or branch detention home or homes.

#### **Compensation.**

§ 17c. Members of the probation committee shall serve without compensation, but shall be allowed their reasonable traveling expenses as approved by the judge of the juvenile court; and the same shall be a charge upon the county in which the court appointing them has jurisdiction, and said expenses shall be paid out of the county treasury upon a written order of the judge of the juvenile court of said county directing the county auditor to draw his warrant upon the county treasurer for the specified amount of such expenses. All orders by the juvenile court judge upon the county treasury shall be filed in duplicate with the county board of supervisors.

#### **Probation offices created. Term. Salaries. Removal. Bond. County officers.**

§ 18. The offices of probation officer and assistant probation officer and deputy probation officer are hereby created. The probation officers and assistant probation officers to serve hereunder in any county shall be nominated by the probation committee in manner as the judge of the juvenile court in the respective counties shall direct, and the appointment of such probation officers and assistant probation officers shall then be made by the judge thereof. The term of office of the probation officers and assistant probation officers shall be two years from the date of their said appointments. All probation officers and assistant probation officers receiving a salary of seventy-five dollars or more per month shall devote their entire time and attention to the duties of their offices, and no such probation officer or assistant probation officer, while holding such office and receiving salary therefor, shall be a candidate for or seek the nomination for any other public office or employment, and no person shall be appointed to and receive the salary attached to such office of either probation officer or assistant probation officer who is a sheriff or constable or is related to the judge of the juvenile court or to a member of the probation committee of such county, by consanguinity or affinity within the third degree computed according to the rules of law. Such probation officers and assistant probation officers may at any time be removed by the judge of the juvenile court for good cause shown; *provided*, that the judge of the juvenile court may at any time in his discretion remove any such probation officer or assistant probation officer with the written approval of a majority of the probation committee. Every probation officer and every assistant probation officer receiving an official salary shall, at the time that he files his oath of office, file with the county clerk of the county his official bond approved by the judge of the juvenile court. The judge

of the juvenile court shall have authority by an order entered in the minutes of said court to determine and fix the amount of bonds of the probation officer of the county and of his assistants. If said bonds, or any of them, are furnished by any surety company licensed to transact business in the State of California, the premium thereon shall be paid out of the county treasury. There shall be appointed, as herein provided, a probation officer in every county, and he may appoint as many deputies as he may desire; *provided, however*, that such deputies shall not have authority to act until their appointment shall have been approved by a majority vote of the members of the probation committee, and by the judge of the juvenile court. The term of office of such deputies shall expire with the term of the probation officer making such appointment, but the probation officer with the written approval of the majority of the members of the probation committee and of the judge of the juvenile court, may, at any time in his discretion revoke and terminate such appointment. Such deputies, except as hereinafter provided, shall serve without compensation; *provided, however*, that in counties having charters providing a method of appointment and tenure of office for probation officers and members of the probation committee, such charter provision shall control as to such matters, and boards of supervisors, if thereto authorized thereby may increase or decrease the number of assistants and deputies and the salary of the probation officer and such assistants, deputies and clerks.

#### **Referees in counties of first class. Female referees.**

§ 19. In counties of the first class the judge of the juvenile court, may appoint referees in juvenile court matters. Said referees shall have the usual power of referees in chancery cases in all such cases submitted to them by the court; shall hear the testimony of witnesses and certify to the judge of the juvenile court their findings upon the case submitted to them, together with their recommendation as to the judgment or order to be made in the case in question.

The court, after notice of the presentation of such findings and recommendation, to the parents of such person, may make the order recommended by the referee, or any other order in the judgment of the court required by the findings of the referee, or may hear additional testimony, or may set aside said findings and hear the case anew.

In appointing a referee for the trial of females, a female referee shall be appointed where possible. Such referee shall serve without compensation save that in counties of the first class having charters, the boards of supervisors shall fix the compensation for at least two such referees. Where a case has been submitted to a referee, as herein provided, without any previous order for temporary custody having been made, the referee shall from time to time, recommend to the court such order or orders for temporary custody as may seem necessary. Thereupon such order shall be made unless the court shall determine otherwise.

### **Probation officers in various counties.**

§ 19a. In counties of the first class there shall be one probation officer and twenty-nine assistant probation officers and clerks. The salaries of said officers shall be as follows: Probation officer, two hundred dollars per month; two assistant probation officers, each one hundred and fifty dollars per month; nineteen assistant probation officers, each one hundred dollars per month; one assistant probation officer to act as probation officer's bookkeeper, one hundred dollars per month; one assistant probation officer to act as probation officer's clerk, eighty-five dollars per month; three assistant probation officers to act as stenographers to the probation officers in clerical work, each seventy-five dollars per month; one assistant probation officer to act as stenographer, sixty-five dollars per month; one assistant probation officer to act as telephone exchange operator, fifty dollars per month; one assistant probation officer who shall be a physician at one hundred and twenty-five dollars per month.

§ 19b. In counties or cities and counties of the second class there shall be one probation officer and ten assistant probation officers. The salaries of said officers shall be as follows: Probation officer, two hundred and twenty-five dollars per month; two assistant probation officers, each one hundred and seventy-five dollars per month and eight assistant probation officers, at one hundred and twenty-five dollars per month each.

§ 19c. In counties of the third class there shall be one probation officer and ten assistant probation officers. The salaries of said officers shall be as follows: Probation officer, two hundred twenty-five dollars a month; one assistant at a salary of one hundred seventy-five dollars a month; one assistant at a salary of one hundred sixty dollars a month; one assistant at a salary of one hundred fifty dollars a month; one assistant at a salary of one hundred thirty-five dollars a month; three assistants at a salary of one hundred dollars a month each; two assistants at a salary of eighty-five dollars a month each; one assistant at a salary of seventy-five dollars a month; *provided, however*, that in the event an adult probation department is created in counties of the third class, from and after the creation of such department and the appointment of an adult probation officer or any deputy or assistant or like officer who shall relieve the probation officer of the adult probation work, the offices of assistant probation officer at a salary of one hundred seventy-five dollars a month and of assistant probation officer at a salary of one hundred sixty dollars a month shall cease and determine and be abolished in counties of this class. [Amended, Statutes 1917, p. 1002.]

§ 19d. In counties of the fourth class there shall be one probation officer, one assistant probation officer, and one deputy probation officer who shall act as probation officer's clerk. The salaries of said officers shall be as follows: Probation officer, one hundred and fifty dollars per month; assistant probation officer, one hundred dollars per month; and one deputy probation officer to act as probation officer's clerk, seventy-five dollars per month.

§ 19e. In each of the counties of the sixteenth, twenty-second and twenty-third classes there shall be one probation officer, whose salary

shall be one hundred fifty dollars per month. In counties of the fifth class there shall be one probation officer at one hundred seventy-five dollars per month, one assistant probation officer, whose salary shall be one hundred fifty dollars per month; one assistant probation officer at a salary of one hundred dollars per month, and one assistant probation officer, who shall be a competent stenographer, at a salary of eighty-five dollars per month. In counties of the twenty-third class there shall be one assistant probation officer whose salary shall be fifty dollars per month. In counties of the twenty-second class the probation officer shall perform in addition to his duties as probation officer, the duties of the attendance officer for the schools of the county, and investigator for the board of supervisors on applications for county and state aid, without any additional compensation except his necessary expenses and such mileage as the board of supervisors shall fix and allow in the performance of his duties. [Amended, Statutes 1917, p. 1022.]

§ 19f. In counties of the sixth class there shall be one probation officer and three assistant probation officers. The salaries of such officers shall be as follows: Probation officer, one hundred and seventy-five dollars per month; one assistant probation officer, one hundred and fifty dollars per month; one assistant probation officer, one hundred dollars per month; and one assistant probation officer to act as probation officer's clerk, one hundred dollars per month.

§ 19g. In counties of the seventh class there shall be one probation officer and three assistant probation officers. The salaries of said officers shall be as follows: Probation officer, one hundred and seventy-five dollars per month; one assistant probation officer, one hundred and fifty dollars per month; one assistant probation officer, one hundred and twenty-five dollars per month; and one assistant probation officer, one hundred dollars per month.

§ 19h. In counties of the eighth class there shall be one probation officer and one assistant probation officer. The salaries of said officers shall be as follows: Probation officer, one hundred dollars per month; assistant probation officer, seventy-five dollars per month.

§ 19i. In each of the counties of the ninth, twelfth, thirteenth, fifteenth, seventeenth, eighteenth, nineteenth, twenty-sixth, twenty-seventh, thirty-third and thirty-sixth class, there shall be one probation officer whose salary shall be one hundred dollars per month. In counties of the ninth class there shall be two assistant probation officers, whose salaries shall be as follows: One assistant probation officer, whose salary shall be seventy-five dollars per month and one assistant probation officer whose salary shall be fifty dollars per month. In counties of the twelfth class, there shall be one assistant probation officer whose salary shall be seventy-five dollars per month. In counties of the thirteenth class there shall be one assistant probation officer whose salary shall be twenty-five dollars per month. In counties of the eighteenth class there shall be four assistant probation officers whose salaries shall be twenty-five dollars per month each. In counties of the twenty-third class there shall be one assistant probation officer whose salary shall be fifty dollars per month. In counties

of the twenty-sixth class there shall be one assistant probation officer, whose salary shall be sixty dollars per month; *provided*, that in counties of the twelfth class the probation officer shall, as a part of his duties, and without any additional compensation, except his necessary expenses, do all necessary work that the board of supervisors of said county may designate or require, in looking after the indigent and poor of said county. [Amended, Statutes 1917, p. 1022.]

§ 19j. In counties of the tenth class there shall be one probation officer whose salary shall be one hundred and sixty-six dollars per month, and one assistant probation officer whose salary shall be seventy-five dollars per month.

§ 19k. In each of the counties of the eleventh, fourteenth and thirtieth class there shall be one probation officer whose salary shall be one hundred twenty-five dollars per month; *provided*, that in the counties of the eleventh class there shall be an assistant probation officer, whose salary shall be seventy-five dollars per month; *and provided*, that in counties of the fourteenth class there shall be an assistant probation officer, whose salary shall be fifty dollars per month; *and provided, further*, that in counties of the thirteenth class the probation officer shall, as a part of his duties, and without any additional compensation, except his necessary expenses, do all necessary work that the board of supervisors of said county may designate or require, in looking after the indigent and poor of said county. [Amended, Statutes 1917, p. 1022.]

§ 19l. In each of the counties of the thirty-second class there shall be one probation officer, whose salary shall be seventy-five dollars per month. [Amended, Statutes 1917, p. 1022.]

§ 19ll. In each of the counties of the twentieth class there shall be one probation officer, whose salary shall be one hundred dollars per month. [Enacted, Statutes 1917, p. 1022.]

§ 19m. In each of the counties of the thirty-ninth, fortieth and forty-second classes, there shall be one probation officer, whose salary shall be fifty dollars per month. [Amended, Statutes 1917, p. 1022.]

§ 19mm. In each of the counties of the twenty-first class there shall be one probation officer, whose salary shall be sixty-five dollars per month. [Enacted, Statutes 1917, p. 1022.]

§ 19n. In each of the counties of the twenty-fourth, twenty-eighth, twenty-ninth, thirty-seventh, forty-first, forty-third, forty-fifth, forty-sixth, forty-seventh, forty-ninth, fifty-first, fifty-second, fifty-third, fifty-fourth, and fifty-sixth class, there shall be one probation officer, whose salary shall be thirty-five dollars per month.

§ 19nn. In each of the counties of the forty-third class there shall be one probation officer, whose salary shall be fifty dollars per month. [Enacted, Statutes 1917, p. 1022.]

§ 19o. In counties of the twenty-fifth class there shall be one probation officer, whose salary shall be one hundred fifty dollars per month, and one assistant probation officer whose salary shall be seventy-five dollars per month. [Amended, Statutes 1917, p. 1022.]

§ 19p. In each of the counties of the thirty-first class there shall be one probation officer whose salary shall be sixty dollars per month.

§ 19q. In counties of the thirty-fourth class there shall be one probation officer whose salary shall be ninety dollars per month.

§ 19r. In counties of the thirty-fifth class, there shall be one probation officer who shall maintain an office in the court house at the county seat. The salary of said probation officer shall be one hundred dollars per month.

§ 19s. In each of the counties of the forty-fourth and fifty-fifth class, there shall be one probation officer whose salary shall be ten dollars per month.

§ 19t. In each of the counties of the forty-eighth and fiftieth classes, there shall be one probation officer whose salary shall be twenty-five dollars per month.

§ 19u. In each of the counties of the fifty-seventh and fifty-eighth class, there shall be one probation officer whose salary shall be five dollars per month.

§ 19v. In counties of the thirty-eighth class there shall be one probation officer whose salary shall be seventy dollars per month and one assistant probation officer whose salary shall be fifty dollars per month.

#### **Payment of salaries.**

§ 19w. The salaries of all probation officers and assistant probation officers shall be paid out of the county treasury of the county for which they are appointed, respectively, in the same manner as the salaries of the other county officers. The probation officers and assistant probation officers and deputy probation officers in all counties of the state shall be allowed such necessary incidental expenses incurred in the performance of their duties as required by any laws of the State of California as may be authorized by the judge of the juvenile court; and the same shall be a charge upon the county in which the court appointing them has jurisdiction, and said expenses shall be paid out of the county treasury upon a written order of the judge of the juvenile court of said county directing the county auditor to draw his warrant upon the county treasurer for the specific amount of such expenses. The probation officer shall keep a list of expenses and file a copy monthly with the county board of supervisors.

#### **Duties of probation officers.**

§ 20. The probation officer shall inquire into the antecedents, character, family history, and environment of every person brought before the court, and of every person alleged to be a person who should be declared free from the custody and control of his parents, and into the cause of such person being brought before the juvenile court, and shall make his report in writing to the judge thereof.

Whenever application is made to the district attorney of the county for the drawing of a petition hereunder, it shall be the duty of the said probation officer to make such investigation as may be required by the said district attorney, or if the application has been made to the probation officer, said probation officer shall make such investigation as to him may

seem necessary for the purpose of determining the necessity for the filing of a petition. If, after such investigation it appears to said district attorney or to said probation officer to whom said application has been made that proceedings should not be brought hereunder, said district attorney or said probation officer to whom said application has been made may refuse to draw said petition.

It shall also be the duty of the probation officer to be present in court to represent the interests of said person when the case is heard, and to furnish to the court such information and assistance as the court may require and to make such report at such time; and to take charge of said person before and after the hearing as may be ordered. Every probation officer, assistant probation officer and deputy probation officer shall have the power of a peace officer. At any time the probation officer may bring any such ward committed to his care before the court with written report and recommendation for such further order or other action as the court may deem proper. Before any such ward is recommitted, the probation officer shall inquire into the reasons assigned for such action and shall be present in court to represent the interests of such ward.

Every probation officer shall have the powers of a school attendance officer, in such portions of the county, in which such probation officer has been appointed, as are not otherwise provided with a school attendance officer, and shall exercise such powers when not inconsistent with his other duties.

Every probation officer, within fifteen days after the thirty-first day of December, of each year, shall make in writing and file as a public document a report to the judge of the juvenile court of the county in which such probation officer is appointed, and shall furnish to the county board of supervisors and to the secretary of the state board of charities and corrections of this state a copy thereof. Such report, without giving names, shall state separately the exact number of neglected, dependent, and delinquent persons and wards of the juvenile court that remain under commitment to the care and custody of the probation officer, and the exact number of such persons of whose cases other disposition has been made, as such number exists, deducting all cases dismissed or discharged as reformed, or where such person has passed the age of twenty-one years upon such thirty-first day of December, segregating such persons as having been adjudged by such juvenile court to be neglected, dependent, delinquent, or wards of the juvenile court, as the case may be, in nineteen hundred and three, nineteen hundred and four, nineteen hundred and five, and so on, up to and including the calendar year for which such report is made and filed. Any of the duties of a probation officer may be performed by an assistant or deputy probation officer, and shall be so performed whenever directed by the probation officer; and it shall be the duty of the probation officer to see that his assistant and deputy probation officers perform their duties.



### **Penalties.**

§ 21. Any person who shall commit any act or omit the performance of any duty, which act or omission causes or tends to cause or encourage any person under the age of twenty-one years to come within the provisions of any of subdivisions one to thirteen inclusive of section one of this act, or which act or omission contributes thereto, or any person who shall, by any act or omission, or by threats, or commands, or persuasion, induce or endeavor to induce any such person, under the age of twenty-one years, to do or to perform any act or to follow any course of conduct, or to so live as would cause or manifestly tend to cause any such person to become or to remain a person coming within the provisions of any of subdivisions one to thirteen inclusive of section one of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail for not more than two years, or by both such fine and imprisonment, or may be released on probation for a period not exceeding five years; and the superior court, sitting as a juvenile court, shall have original jurisdiction over all such misdemeanors. The court may also, as a condition of such probation, require a bond in such sum as the court may designate, to be approved by the judge requiring the same, to secure the performance by such person of the conditions imposed by the court on such probation. Such bond shall by its terms be made payable to the State of California and any moneys received for the breach thereof shall be paid into the county treasury.

### **Detention home. Superintendent and matron.**

§ 22. It shall be the duty of the legislative body of every county, or city and county, immediately upon this act becoming effective, to provide and thereafter maintain, at the expense of such county, or city and county, in a location approved by the judge of the juvenile court, a suitable house or place to be known as the "detention home" of said county, or city and county, for the detention of wards of the juvenile court and of persons alleged to come under the provisions of subdivisions one to thirteen inclusive of section one of this act. Such detention home must not be in, or connected with any jail, or prison, and shall be conducted in all respects as nearly like a home as possible and shall not be deemed to be nor be treated as a penal institution. Such legislative body must also provide for a suitable superintendent and matron to have charge of such detention home, and for such other employees as may be needed in the efficient management of such detention home, and provide for the payment, out of the general fund of the county, or city and county, of suitable salaries for such superintendent, matron and such other employees, such superintendent, matron and other employees to be appointed by said legislative body upon the nomination of the probation committee and the approval of the judge of the juvenile court. The superintendent of the detention home shall keep a classified list of expenses, and shall file a

duplicate copy with the county board of supervisors. The superintendent, matron, or other employee of such detention home, may, at any time be removed by the probation committee in its discretion.

### **Appeal from judgment.**

§ 23. Every judgment or decree of a juvenile court assuming jurisdiction and declaring any person to be a ward of the juvenile court or a person free from the custody and control of his parents may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment; but no such order or judgment shall be stayed by such appeal, unless suitable provision is made for the maintenance, care and custody of such person pending the appeal, to be approved by an order of the said juvenile court. Such appeal shall have precedence in the court to which the appeal is taken over all other cases.

### **Construction of act.**

§ 24. This act shall be liberally construed, to the end that its purpose may be carried out, to wit, that the care, custody and discipline of a ward of the juvenile court, as defined in this act, shall approximate as nearly as may be that which should be given by his parents, and in all cases where it can be properly done, the ward of the juvenile court, as defined in this act, shall be placed in an approved family, with people of the same religious belief, and become a member of the family, by legal adoption or otherwise. All commitments to institutions or for placement in family homes under this act shall be, so far as practicable, either to institutions or for placement in family homes of the same religious belief as that of the person so committed or of his parents or to institutions affording opportunity for instruction in such religious belief. In any detention or commitment under this act, no merely unfortunate person shall be brought into direct contact or personal association with any wayward person of evil influence. In all cases of female persons over the age of five years coming under the provisions of this act, such persons shall be dealt with, so far as possible, by or in the presence of a woman: probation officer, assistant probation officer, deputy probation officer, a woman member of the probation committee, or other woman; and in transporting female persons coming under any of the provisions of this act, such persons shall be transported in the care and custody of a woman. In this act the word "county" shall include "city and county," the plural shall include the singular, and the singular shall include the plural, and the word "ward" shall mean "a ward of the juvenile court," as defined in this act.

### **Acts superseded.**

§ 25. This act shall supersede all provisions of the act entitled "An act to establish a state school for juvenile offenders, and to make an appropriation therefor," approved March 11, 1889, and all amendments thereto, and all provisions of the act entitled "An act to establish a school of industry, to provide for the maintenance and management of the same,

and to make an appropriation therefor," approved March 11, 1889, and all amendments thereto, relating to the mode of commitments to the institutions therein named; but said acts shall control as to all matters concerning the management of said institutions, respectively.

### **Acts repealed.**

§ 26. The juvenile court law approved March 8, 1909, as amended by an act approved April 5, 1911, and as amended by an act approved June 16, 1913, and all amendments thereof, and all acts or parts of acts inconsistent herewith are hereby repealed; *provided, however*, that nothing herein contained shall be deemed to interfere with the management of any state school except as herein expressly provided; *provided, further*, that all orders and judgments heretofore made under the acts hereby repealed shall continue in full force and effect and the court shall retain jurisdiction of all persons now subject to the jurisdiction thereof, and such persons shall be herein dealt with in the same manner as if all previous orders had been made under the provisions of this act, and all proceedings now pending under said act shall be continued under the provisions of this act.

Persons charged with crime under the provisions of section twenty-six of said law of nineteen hundred eleven, or section twenty-eight of said law of nineteen hundred thirteen, shall be tried and punished under the law as it existed at the time of said alleged offense.

All officers holding office under the provisions of said acts shall be continued therein, subject hereto and nothing herein contained shall be deemed to interfere with their term or tenure of office.

### **Constitutionality.**

§ 27. If any one section or sections, or portion or portions of a section, or any paragraph or paragraphs, or sentence or sentences of this act are declared invalid such declaration shall not affect the rest of the law.

## **PRESTON SCHOOL OF INDUSTRY.\***

*An act to establish a school of industry, to provide for the maintenance and management of the same, and to make an appropriation therefor.*

[Approved March 11, 1889; amended 1893, 1909, 1915; Statutes 1889, p. 100; 1893, p. 39; 1909, p. 964; 1915, p. 849.]

### **Preston School of Industry.**

§ 1. There shall be established at or within a convenient distance from Ione City, in the county of Amador, in said State, an educational institution to be designated as the Preston School of Industry.

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\*By Section 25 of the Juvenile Court Law of 1915, provisions of the above act relating to the mode of commitments were superseded. These provisions, together with sections relating to the first establishment of the school, are omitted in this reprint.

### **Government and supervision.**

§ 3. The general government and supervision of said school shall be vested in a board of trustees, consisting of three citizens of the State of California, who shall be appointed by the governor. The members of said board shall hold their offices for the respective terms of two, three and four years, from the first day of July, eighteen hundred and ninety-three, and until their successors shall be appointed and qualified, said respective terms to be designated in their appointments; and thereafter, upon the expiration of such terms, there shall be one of said board appointed, whose term of office shall be continued four years, and until his successor is appointed and qualified. Said trustees, before entering on the discharge of the duties of their office, shall each take an oath faithfully to discharge the same. [Amended, Statutes 1893, p. 39.]

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### **Board not to be interested in contract. .**

§ 6. No member of the board or employee of the institution shall be interested in any contract or enterprise in connection with said school. [Amended, Statutes 1893, p. 39.]

### **Construction of act.**

§ 7. This act shall be construed as the sole and exclusive act on the subject matter contained herein, unless specially or otherwise herein provided; and none of the provisions of an act entitled "An act to regulate contracts on behalf of the state in relation to erections of buildings," approved March 23, 1876, or any other act, unless herein specially referred to, shall apply to or govern or limit this act, or any of the powers or duties in this act conferred upon said board.

### **No association with convicts.**

§ 8. Nothing in this act contained shall be so construed as to permit any convict or convicts, undergoing sentence in either of the state prisons of California, to associate with or be so employed as to mingle with any person or persons undergoing commitment in the said school.

### **Military discipline.**

§ 9. The said school shall be conducted on such plan as to the board may seem best calculated to carry out the intentions of this act, and its inmates shall be subject to military discipline, including daily drill. They shall be clothed in military uniform of such pattern and material as may be prescribed by the board, but under no circumstances shall such inmates be clothed in convict stripes while undergoing commitment in said school. [Amended, Statutes 1893, p. 39.]

**Compensation of board members.**

§ 10. The members of the board shall receive no compensation for their services, but shall be allowed their reasonable expenses incurred while in the discharge of their official duties. The salaries or wages of all officers or employees of the school shall be fixed by the board in accordance with law. [Amended, Statutes 1915, p. 849.]

**Superintendent.**

§ 11. The board shall elect a superintendent, a military instructor, and a secretary. The superintendent and secretary shall give such bonds for the faithful performance of their duties as the board shall determine. The bond of the superintendent shall be for a sum of not less than ten thousand dollars, and that of the secretary of not less than five thousand dollars. The military instructor must be a man who is a good disciplinarian and skilled in military tactics. He shall receive from the governor a commission with the rank of major. He shall perform such duties and receive such salary as the board may prescribe. The board shall meet once in three months for the transaction of business. Special meetings may be called by the president when deemed necessary.

**Instruction.**

§ 12. The board shall cause to be organized and maintained a department of instruction for the inmates of said school, with a course of study corresponding as far as practicable with the course of study in the public schools of this state, but the course shall not be higher than the course prescribed in grammar schools. They shall adopt a system of government, embracing such laws and regulations as are necessary for the guidance of the officers and employees, for the regulation of the hours of study and labor, for the preservation of order, for the enforcement of discipline and military training, for the preservation of health, and for the industrial training of the inmates. The ultimate purpose of all such instruction, discipline, and industries shall be to qualify the inmates for honorable and profitable employment after their release from the institution, rather than to make said institution self-sustaining. The board shall also determine the number of officers and employees required, and shall prescribe their duties and fix the amount of their compensation.

**Duty of superintendent.**

§ 13. The superintendent, before entering upon the discharge of his duties, shall make and file with the board an oath that he will faithfully and impartially discharge the duties of his office. Thereupon he shall, subject to the regulations prescribed by the board, be invested with the custody of the lands, buildings, and all other property belonging to and under the control of the said institution. He shall receive for his services a salary not exceeding the sum of three thousand dollars per annum. He shall appoint, except as hereinbefore provided, all officers and employees of said institution, who shall hold office during his pleasure. He shall

provide a book in which shall be registered the name, residence, occupation, and religious creed of every boy received into the school; the date of his reception, and the date and condition of his discharge; the names, residence, and occupation of his parents; whether the boy was apprenticed or not, and if so apprenticed, the name, residence, and occupation of the person to whom he was apprenticed. He shall have charge of all persons committed to the institution by any magistrate or court, shall use his best efforts to employ, instruct, discipline, and reform all such persons under his charge, and shall discharge such other duties as the said board may direct, and shall at all times be subject to removal by the board for incapacity, immorality, negligence of duty, or cruelty to the inmates.

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### **Dismissals.**

§ 17. It shall be lawful for the board, whenever it may deem any inmate of said institution to have been so far reformed as to justify his discharge, to give him an honorable dismissal, and to cause an entry of the reasons for such dismissal to be made in the book of records prepared for that purpose. All persons thus honorably dismissed, and all those who shall have served the full term of their respective sentences, shall thereafter be released from all penalties and disabilities resulting from the offenses or crimes for which they were committed. Upon the final discharge of any inmate as in this section provided, the superintendent shall immediately certify such discharge in writing, and shall transmit the certificate to the magistrate or court by which such inmate or boy was committed. Said magistrate or court shall thereupon dismiss the accusation and the action pending against said person.

### **Parole.**

§ 18. There shall be established in said school a system of marking and grading upon merit or attainments in school and shop and general conduct, by which the boy committed under this act may work out his way to parole and honorable discharge. When in the opinion of the superintendent a boy, by the regulations established for that purpose, has earned the right to a parole, he shall cause to be obtained a reputable home or place of employment where said boy may be employed and earn a living by honorable labor, and then shall recommend said boy to the board for parole, and if the board is satisfied that it is for the welfare of such boy to be paroled, it shall grant such parole under such condition as it may deem best, which shall be continued until such boy has proved his ability for honorable self-support when he shall, upon the recommendation of the superintendent, be honorably discharged. Any boy who, while on parole, violates the conditions of the parole may be returned to said school. [Amended, Statutes 1909, p. 964.]

**Incorrigibles.**

§ 19. Any boy committed to said school who, after due trial, is found to be, in the opinion of the superintendent, incapable of reformation or so morally deficient or incorrigible as to render his retention detrimental to the interests of said school, or when it is ascertained by good and sufficient evidence that said boy has misrepresented his age to the court who sentenced him, or has been previously convicted of a felony, he may recommend such boy to the board for return to the said court, and if the board is satisfied that it is for the best interests of the school that such boy be returned, it shall so cause him to be returned to the said court, and it shall be lawful for said court to annul and set aside the previous commitment to said Prestoh School of Industry and resume proceedings where the same were suspended when such commitment was made. [Amended, Statutes 1909, p. 964.]

**Transfer from state prison.**

§ 20. Any boy under the age of eighteen years, who is undergoing sentence in any state prison in this state (except such as are undergoing a life sentence), and who shall be deemed a fit subject for training in the said school, may, upon recommendation of the state board of prison directors, with the approval of the governor, be transferred to said school for the unexpired period of his sentence, and when honorably discharged from said school, as hereinbefore provided, shall be entitled to such benefits and immunities as are provided for the other inmates of the institution.

**Aiding escape.**

§ 21. Any person who knowingly permits, or who aids any boy to escape from the said school, or who knowingly promotes his departure, or conceals him with the intent of enabling such escaped boy to elude pursuit, shall be guilty of a misdemeanor, and shall, upon conviction, be punished according to law. Any fugitive from said institution, or from the parties to whom he is bound out or apprenticed, may be arrested and returned to the institution by any person upon written request or order of the superintendent directed to such person.

**Contracts for provisions.**

§ 22. The board of trustees are hereby authorized and required to contract for provisions, clothing, medicines, forage, fuel, and other staple supplies of the school for any period of time not exceeding one year, and such contracts shall be limited to bona fide dealers in the several classes of articles contracted for. Contracts for such articles as the board may desire to contract for shall be given to the lowest bidder at a public letting thereof, and if the price bid is a fair and reasonable one, and not greater than the usual market value and prices. Each bid shall be accompanied by such security as the board may require, conditioned upon the bidder entering into a contract upon the terms of his bid, on notice of the accept-

ance thereof, and furnishing a bond, with good and sufficient sureties, in such sum as the board may require, and to their satisfaction, that he will faithfully perform his contract. If the proper officer reject any article as not complying with the contract, or if a bidder fail to furnish the articles awarded to him when required, the proper officer of the school may buy other articles of the kind rejected or called for, in the open market, and deduct the price thereof over the contract price from the amount due to the bidder, or charge the same up against him. Notice of the time, place, and conditions of the letting of contracts shall be given for at least two consecutive weeks in one newspaper printed and published in the city and county of San Francisco, in one newspaper printed and published in the city of Sacramento, and in one newspaper printed and published in the county of Amador. If all bids made at such letting are deemed unreasonably high, the board may, in their discretion, decline to contract, and may again advertise for such time and in such papers as they see proper for proposals, and may so continue to renew the advertisement until satisfactory contracts are made; and in the mean time the board may contract with any one whose offer is regarded just and equitable, or may purchase in the open market. No bid shall be accepted, nor a contract entered into in pursuance thereof, when such bid is higher than any other bid at the same letting for the same class or schedule of articles, quality considered, and when a contract can be had at such lower bid. When two or more bids for the same article or articles are equal in amount, the board may select the one which, all things considered, may by them be thought best for the interest of the state, or they may divide the contract between the bidders, as in their judgment may seem proper and right. The board shall have power to let a contract in the aggregate, or they may segregate the items and enter into a contract with the bidder or bidders who may bid lowest on the several articles. The board shall have the power to reject the bid of any person who had a prior contract, and who had not in the option [opinion] of the board faithfully complied therewith. [Amended, Statutes 1893, p. 40.]

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#### **Effect of other acts in conflict.**

§ 25. For the purpose of giving practical effect to the provisions of this act, all laws or parts of laws which conflict with the provisions hereof are, for the purposes of this act only, suspended, and hereby made inapplicable to any boy committed to and in the custody of said school.

#### **Sheriffs' fees.**

§ 26. In all proceedings relating to commitments under this act the fees and compensation of the sheriff and other officers of the court shall be such as are allowed by law for like proceedings and services in criminal cases.



**Construction of act.**

§ 27. This act shall be construed in conformity with the intent as well as with the express provisions hereof, and shall confer upon the board authority to do all those lawful acts, from time to time, which are necessary to promote the prosperity of the institution and the well being and reformation of its inmates, including the organization of trade schools, the purchase and use of fixed and movable machinery, the erection of necessary buildings for machinery and other purposes, the improvement and management of a farm, orchard, and garden, the purchase of necessary supplies for the institution, and materials for manufacture, and performance of all other necessary and lawful acts, not otherwise prohibited, which may be required to comply with the purposes of this act; but nothing herein contained shall be so construed as to permit said board to incur any indebtedness or obligation in excess of the appropriations allowed by law for the establishment and maintenance of said school.

§ 28. This act shall take effect and be in force from and after its passage.

**THE WHITTIER STATE SCHOOL.\***

*An act to establish a school for the discipline, education, employment, reformation, and protection of juvenile delinquents, in the State of California, to be known as "The Whittier State School."*

[Approved March 11, 1889; amended 1893, 1905, 1907, 1909; Statutes 1889, p. 111; 1893, p. 328; 1905, p. 80; 1907, p. 3; 1909, p. 988.]

**Whittier State School.**

§ 1. There shall be established and maintained in this state and located at Whittier, in the county of Los Angeles, an institution for the discipline, education, employment, reformation, and protection of juvenile delinquents in the State of California, to be known as "The Whittier State School"; and in all judicial, official, or other proceedings, and in all contracts, transfers, or other instruments in writing, the above name shall be deemed a sufficient designation of said institution. [Amended; Statutes 1893, p. 328.]

**Board of trustees.**

§ 2. The general supervision and government of said institution shall be vested in a board of trustees consisting of three citizens of the State of California, who shall be appointed by the governor with the advice and consent of the senate. The members of said board shall hold their offices for the respective terms of two, three, and four years from the first day of March, eighteen hundred and eighty-nine, and until their successors shall be appointed and qualified said respective terms to be designated in

\*By section 25 of the Juvenile Court Law of 1915, provisions of the above act relating to the mode of commitments were superseded. These provisions, together with sections relating to the first establishment of the school, are omitted in this reprint.

their appointments; and thereafter there shall be one of said board appointed in the same manner every two years, whose term of office shall continue four years, and until his successor is appointed and qualified. If a vacancy shall occur in said board by expiration of the term of any such trustee, or otherwise, when the senate is not in session, the governor shall fill such vacancy for the unexpired term, subject to the approval of the senate at its next regular session. Said trustees, before entering on the discharge of the duties of their office, shall each take an oath faithfully to discharge the same.

### **Powers.**

§ 3. The trustees of such institution shall be a body corporate and politic for certain purposes, namely: To receive, hold, use, and convey or disburse moneys or other property, real and personal, in the name of said corporation but in trust and for the use and by the authority of the State of California, and to control, manage, and direct the several trusts committed to them respectively, including the organization, government, and discipline of all officers, employees, and other inmates of said institution, with power to make contracts, to sue and be sued, plead and be impleaded, to have and to use a common seal, and to alter the same at pleasure, and to exercise all the powers usually belonging to said corporations and necessary for the successful discharge of the obligations devolved by law upon said members of trust; *provided*, that they shall not have power to bind the state by any contract or obligation beyond the amount of appropriations which may at the time have been made for the purposes expressed in the contract or obligation, nor to sell or convey any part of the real estate belonging to such institution without the consent of the legislature, except that they may release any mortgage, or convey any real estate which may be held by them as security for any money or upon any trust, the terms of which authorize such conveyance; *and provided, further*, that the legislature shall have power at any time to amend, alter, revoke, or annul the grant of corporate powers herein contained.

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### **Trustee not to be interested.**

§ 6. No trustee or employee of such institution shall be personally, directly or indirectly, interested in any contract, purchase, or sale made, or any business carried on in behalf of or for said institution. All contracts, purchases, or sales made in violation of this section shall be held and declared null and void, and all moneys paid to such trustee, employee, or any other person for his benefit, in whole or in part, in consideration of such purchases, contracts, or sales made, may be recovered back by civil suit, to be instituted in the name of the State of California, against such trustee, employee, or person acting in his behalf; and in addition it is hereby made the duty of the governor and the board of trustees, as the case may be, upon proof satisfactory of the fact of such interests, to

immediately remove the trustee or employee delinquent as aforesaid, and to report the facts to the attorney general, who shall take such legal steps in the premises as he shall deem expedient.

#### **Rules and regulations.**

§ 7. The board shall make all needful rules and regulations concerning their meetings and the modes of transacting their business; shall take charge of said institution to see that its affairs are properly conducted, that strict discipline is maintained, and that suitable employment and education are provided for its inmates. They are authorized to make contracts for the purchase of furniture, apparatus, tools, stock, provisions, and everything necessary to equip the institution for the purposes herein specified, and to maintain and operate the same; *provided*, said board shall incur no expense nor contract any debt beyond appropriations made or donations given for the said school; and then only in such manner as may be prescribed by the act of appropriation or the instrument of donation. [Amended, Statutes 1893, p. 329.]

#### **Officers.**

§ 8. The board shall annually elect from their own number a president and a vice-president, whose term of office shall be for one year, and until their successors shall be duly appointed and qualified. They shall also elect a treasurer, not one of their own number, whose term of office shall be for two years, and until his successor shall be duly elected and qualified, who shall be at all times subject to removal by the board for good cause. [Amended, Statutes 1893, p. 329.]

#### **Superintendent.**

§ 9. The board shall appoint a superintendent of said school, not of their own number, whose salary shall be fixed by said board, not to exceed three thousand six hundred dollars per annum, and shall also appoint such other officers and such assistants as the wants of the institution may from time to time require, and shall prescribe their duties and fix their salaries, as may be reasonable. [Amended, Statutes 1893, p. 329.]

#### **Report of trustees.**

§ 10. Said board of trustees shall, on or before the first day of December every two years, make to the governor a full and detailed report of their doings as such trustees, and of the expense of said institution, with such other information relating thereto as they may think interesting or useful to the state; which report shall be communicated by the governor to the next succeeding session of the state legislature. Said trustees shall receive no salary for their services as such from the State, but shall be allowed all necessary expenses incurred in the discharge of their duties.

**Meetings.**

§ 11. The board of trustees shall have a regular meeting once every three months, at such time and place as they may direct; special meetings may be called by the president of said board in all cases where it becomes necessary for such a meeting.

**Duty of superintendent.**

§ 12. The superintendent before entering upon the duties of his office shall take an oath faithfully to discharge the same and execute a bond with sureties to be approved by the board, in a sum to be fixed by the board, conditioned for the faithful performance of all his duties as such superintendent. He shall be a resident at the institution, and shall be ex officio the secretary of the board, taking charge of all books and papers. He shall have charge of the land, buildings, furniture, apparatus, tools, stock, provisions, and every other species of property belonging to the institution, subject to the direction and control of said board, and shall account to the board in such manner as they may require for all property intrusted to him, and all moneys received by him from whatever source shall be deposited with the treasurer. His books shall at all times be open to the inspection of the board, who shall at least once in every three months carefully examine the same and all accounts, vouchers, documents connected therewith, and make a report of the result of such examination in a book provided for the purpose. He shall have charge of the inmates of said institution; he shall discipline, govern, instruct, employ, and use his best efforts to reform the children and youth under his care, and shall at all times be subject to removal by the board for incapacity, cruelty, negligence, immorality, or any other good cause.

**Duty of treasurer.**

§ 13. The treasurer before entering upon the duties of his office shall take an oath faithfully to discharge the same, and shall execute a bond to the people of California with sureties to be approved by said board in at least double the sum of money for which he may be responsible as treasurer, conditioned for the faithful performance of all his duties as such treasurer; he shall take charge of all the funds of the institution, receiving the same and disbursing them on the written order of the superintendent, and shall account to the board in such manner as they may require for all funds intrusted to him from whatever source. His books shall at all times be open to the inspection of the board and superintendent, who shall at least once in every six months carefully examine the same and all the accounts, vouchers, and documents, connected therewith, and make a report of the result of such examinations. Such treasurer must be a citizen of Los Angeles county, and shall receive for his services a salary of six hundred dollars per annum.

### **Buildings for male and female inmates.**

§ 14. Said board of trustees shall arrange the building or buildings to be used for said school, and the grounds about the same, so that a portion thereof may be used for the proper confinement, care, and education of the male inmates, and the remaining portion for the proper confinement, care, and education of the female inmates, and to the absolute exclusion of all communication of any kind or character between the sexes. [Amended, Statutes 1893, p. 329.]

\* \* \* \* \*

### **Discharge of child.**

§ 18. It shall be lawful for the board whenever it may deem any inmate of said institution to have been so far reformed as to justify his discharge, to give him an honorable dismissal and to cause an entry of the reasons for such dismissal to be made in the book of records prepared for that purpose. All persons thus honorably dismissed and all those who have attained the age of twenty-one years shall thereafter be released from all penalties and disabilities resulting from the offenses or crimes for which they were committed. Upon the final discharge of any inmate as in this section provided, the superintendent shall immediately certify such discharge in writing and shall transmit the certificate to the court by which such inmate was committed. Said court, thereupon, shall dismiss the accusation and the action pending against said person. [Amended, Statutes 1909, p. 990.]

### **Right to parole.**

§ 19. There shall be established in said school a system of marking and grading upon merit or attainments in school and shop and general conduct, by which the boy or girl committed under this act may work out his or her way to parole and honorable discharge. When in the opinion of the superintendent a boy or girl, by the regulations established for that purpose, has earned a right to a parole, he shall cause to be obtained a reputable home or place of employment where said boy or girl may be employed and earn a living by honorable labor, and then shall recommend said boy or girl to the board for parole, and if the board is satisfied that it is for the welfare of such boy or girl to be paroled, it shall grant such parole under such conditions as it may deem best, which shall be continued until such boy or girl has proved his or her ability for honorable self-support, when he or she shall, upon the recommendation of the superintendent be honorably discharged. Any boy or girl who, while on parole, violates any of the conditions of the parole may be returned to said school. [Amended, Statutes 1909, p. 990.]

### **Incorrigible child.**

§ 20. Any boy or girl committed to said school who, after due trial, is found to be, in the opinion of the superintendent, incapable of reformation, or so morally deficient or incorrigible as to render his or her retention detrimental to the interests of said school, or when it is ascertained

by good and sufficient evidence, that said boy or girl has misrepresented his or her age to the court who sentenced him or her, or has been previously convicted of a felony, he may recommend such boy or girl to the board of trustees for return to the said court and if the said board is satisfied that it is for the best interests of the school that such boy or girl be returned, it shall so cause him or her to be returned to said court, and it shall be lawful for said court to annul and set aside the previous commitment to the said Whittier State School and resume proceedings where the same were suspended when such commitment was made. [Amended, Statutes 1909, p. 991.]

\* \* \* \* \*

### **Discharge.**

§ 23. Upon the discharge of any person committed to said school, the superintendent thereof, under such regulations and restrictions as the said board of trustees may prescribe, may provide such person with suitable clothing and five dollars in money, and procure transportation for such person to his or her home, if resident in this State, or to the county to which he or she may have been committed, at his or her option. [Amended, Statutes 1893, p. 333.]

### **Aiding in escape of inmate.**

§ 24. If any person procure the escape of any person committed to the school, or advise or connive at, aid, or assist in such escape, or conceal any such person so committed after such escape, he shall, upon conviction thereof in any superior court, be punished by a fine of not less than two hundred dollars nor more than one thousand dollars, or be imprisoned in the county jail not less than two months nor more than one year, or by both such fine and imprisonment; or, if such person so convicted be under the age of sixteen years, then he shall be sentenced to the school, as in this act provided. [Amended, Statutes 1893, p. 334.]

### **Who shall execute writ of commitment.**

§ 25. It shall be the duty of the sheriff of any county wherein an order is made or approved by a superior judge committing any minor to said school, to execute any and all writs of commitment issued or approved by said judge and to receive as compensation therefor such fees as are now or may hereafter be provided by law for the transportation of prisoners to the state prison; *provided*, that in all cases where the commitment shall be made under section 16a, 16b, or 16c, of this act, the parent, guardian, or other protector of such minor may, at his option, and in all cases where he is liable, or where the estate of such minor is sufficient, execute said writ of commitment, after having been duly sworn therefor with like powers and with like effect as the sheriff would possess in such case, but without expense to the state; *and further provided*, that in the case of a minor female committed to said school, and there is no parent, guardian, or other protector of such minor, who, in the opinion of the court, is a proper person to safely conduct such female to said school, that then, in

such case, the court shall appoint some suitable woman of satisfactory character and discretion, who shall take the custody of such minor female after her said commitment, and shall forthwith deliver her to said school, and be entitled to the same compensation therefor as is otherwise provided to be paid to the sheriff in all cases where, if such minor were a boy and were by a sheriff delivered to said school, he, the said sheriff, would be entitled to receive compensation, under the terms of this act [Amended, Statutes 1909, p. 992.]

#### **Examination of claims.**

§ 26. The said board of trustees shall examine, audit, and allow the demands arising under the terms of the aforesaid act and the amendments thereto, and the state controller shall thereupon draw his warrants therefor, payable out of the proper fund, and the state treasurer is hereby ordered to pay such warrants. [Amended, Statutes 1893, p. 334.]

#### **Transfer of boy under eighteen.**

§ 27. Any boy under the age of eighteen years, who is undergoing sentence in any state prison in this state (except such as are undergoing a life sentence), and who shall be deemed a fit subject for training in the said school, may, upon recommendation of the state board of prison directors, with the approval of the governor, be transferred to said school for the unexpired period of his sentence, and when honorably discharged from said school, as hereinbefore provided, shall be entitled to such benefits and immunities as are provided for the other inmates of the institution. [Enacted, Statutes 1909, p. 992.]

### **DEPARTMENT FOR CLINICAL DIAGNOSIS OF INMATES AT WHITTIER STATE SCHOOL.**

*An act authorizing the board of trustees of the Whittier State School to maintain a department for the clinical diagnosis of inmates of the school and other state institutions, and to inquire into the causes and consequences of delinquency and mental deficiency, and related problems.*

[Approved May 11, 1917; Statutes 1917, p. 422.]

#### **Department for clinical diagnosis authorized.**

§ 1. The board of trustees of the Whittier State School is hereby authorized and empowered to maintain on the property of the school, a department for the clinical diagnosis of the inmates of the school, and of such other state institutions as may, from time to time, request assistance from said department, such request to be approved by the state board of control. This department shall also carry on research into the causes and consequences of delinquency and mental deficiency, and shall inquire into social, educational and psychological problems relating thereto, and for that purpose may make such investigations and inquiries in the

said institutions, when so requested, and elsewhere as may be deemed advantageous. The state board of control may apportion the expenses of the said department, among the different institutions receiving the benefit of the work of the department, in such manner as it may deem proper.

**Clinical psychologist in charge.**

§ 2. The said department shall be under the direction of a clinical psychologist, subject to the control of the superintendent of the said school. The said psychologist shall be given a sufficient staff of trained assistants that the intelligence level of each inmate may be established through the standardized psychological tests, supplemented by personal and family history and data from such other lines of investigation as may seem advisable, and that such other work may be done as may be undertaken by the department. The said psychologist and assistants shall be employed by the said superintendent, with the approval of the said board of trustees and at compensation satisfactory to it.

**COMMITMENTS TO WHITTIER AND PRESTON.**

*An act relating to commitments to the state school at Whittier and to the Preston School of Industry; fixing the authority to examine and commit to such schools with the superior court judges of the counties, and fixing the responsibilities from which commitments are made to the state for maintenance of the persons committed therefrom; providing for the manner of payment thereof, and fixing the responsibility of the parents to the counties from which their children are committed.*

[Approved March 26, 1895; Statutes 1895, p. 122.]

**Commitments only by superior judges. Payment by parents.**

§ 1. The superior judge of any county, and no other judicial officer, shall have the power to examine, discharge, or commit any offender either to the Whittier State School or to the Preston School of Industry; *provided*, that the superior judge shall determine whether or not the parent or guardian of any minor committed to the Whittier State School or to the Preston School of Industry is able to pay to the county in which the commitment is made for the maintenance of such minor during the term of such commitment; and when the superior judge shall determine that said parent or guardian has the ability to pay as aforesaid for the maintenance of such minor during the term of such confinement, the parent or parents or guardian shall pay into the treasury of such county the sum of eleven dollars per month in advance; and in case of the failure to pay the same as herein provided it shall be the duty of the district attorney of such county to proceed to collect the amount from such parent, parents, or guardian in the manner that other indebtedness against the county is collected.



**Payment by county.**

§ 2. For each and every person hereafter committed to either the Whittier State School or the Preston School of Industry, the county from which the commitment is made shall pay into the state treasury the sum of one hundred and thirty-two dollars per annum, and at that rate for each fraction of a year.

**Duties of clerk of court and county treasurer.**

§ 3. It is hereby made the duty of the clerk of the superior court of the county from which such commitment is made, to certify to the county auditor the name, age, and date of commitment of each person committed by the superior judge thereof, and the amount due to the state from the county by reason of such commitments, and before the first day of May and December of each and every year to file with the treasurer of the county a statement of the number of commitments, with the date thereof, and the amount due from the county by reason of such commitments, to the state treasurer; and it is further made the duty of the county treasurer, during the settlement or at the time of the settlement with the state during the month of May and December of each year, to pay to the state treasurer, through the state controller, the amount so found to be due to the state by reason of commitments to the state schools as herein provided.

**Duty of superintendents of state schools.**

§ 4. The superintendent of the state school at Whittier and the Preston School of Industry are hereby required to transmit to the state treasurer a statement of all commitments to their respective institutions, showing the name of the person committed, the date of the commitment, and the county from which the commitment is made, and the amount due to the state from the county by reason of such commitments; said statement to be made quarterly as follows: on or before the first day of January, the first day of April, the first day of July, and the first day of October of each year; and it is hereby made the duty of the controller of state to add the amounts due to the state from said counties such sum as may be shown to be due by reason of commitments to such schools, as in section two of this act provided.

**Conflicting acts repealed.**

§ 5. All acts and parts of acts in conflict herewith are hereby repealed. **In effect when.**

§ 6. This act shall take effect immediately.

## CALIFORNIA SCHOOL FOR GIRLS.

*An act to establish a state training school for girls; to provide for the maintenance and management of the same, and to make an appropriation therefor.*

[Approved June 14, 1913; amended 1915, 1917; Statutes 1913, p. 857; 1915, p. 53; 1917, p. 473.]

### California school for girls.

§ 1. There is hereby established a state training school for the confinement, discipline, and instruction of such girls as may be committed to it by law, to be known as the California School for Girls.

### Trustees. Vacancies.

§ 2. The government and management of said school shall be vested in a board of five trustees, who shall be appointed by the governor for a term of four years and until their successors are appointed and qualified; *provided*, that of the trustees first appointed two shall be for a term of four years, one for a term of three years, one for a term of two years and one for a term of one year, commencing within thirty days after this act becomes effective. Whenever a vacancy occurs the appointment to fill the same shall be made by the governor for the remainder of the term. Such trustees shall receive no compensation for their services, but shall be allowed their reasonable traveling and other official expenses.

### Officers.

§ 3. The board of trustees shall elect annually a president, a vice president and a secretary, whose terms of office shall be one year or until their successors are elected and qualified. No one but a member of the board shall be elected president or vice president thereof. The board shall appoint a superintendent, not of their own number, who shall be a woman qualified by training and experience for the character of work to be done at this school, and fix her salary at not to exceed three thousand six hundred dollars per annum. Such superintendent shall hold office at the pleasure of the board. [Amended, Statutes 1917, p. 473.]

### Rules and regulations.

§ 4. The board of trustees shall make all needful rules and regulations for the transaction of its business and for the management and government of said school. It shall determine the number, title and duties of all other officers and employees, and fix the salaries thereof. It shall see that discipline is maintained and that proper education is provided, to the end that those committed to its charge shall be prepared to become honorable, self-supporting members of society. It is authorized and required to make all contracts for the operation and maintenance of said school that may be necessary, subject to the limitations prescribed by law.

**Not to be interested in contract.**

§ 5. No trustee or employee of such school shall be interested personally, directly or indirectly, in any contract, purchase or sale made, or any business carried on in behalf of, or for such institution, and any money so paid on such contracts or sales may be recovered by civil suit, and it shall be the duty of the governor or the board of trustees, as the case may be, upon proof of the fact of such interest, to remove immediately such trustee or employee.

**Superintendent's bond, duties, etc.**

§ 6. The superintendent shall, before entering upon the discharge of her duties, make and file with the board of trustees an oath that she will faithfully and impartially discharge the same, and file a bond in the sum of ten thousand dollars running to the State of California, and with sureties to be approved by said board, conditioned upon the faithful performance of her said duties. She shall thereupon, subject to the regulations prescribed by the board, be invested with the custody of the lands, buildings and all other property belonging to and under the control of said school, subject to the direction of said board, and shall account to it in such manner as it may require for all property entrusted to her and all moneys received by her as such superintendent, for said school or any of its inmates. She shall appoint, except as hereinbefore provided, all officers and employees of said school, who shall hold office at her pleasure.

**Bond of officers.**

§ 7. The board of trustees shall require such officers as may be entrusted with money belonging to the school or its inmates, or as may be placed in a position of trust and responsibility in the custody of property, or in the handling of supplies belonging to the school, to give bond with sureties to be approved by the board, in such sum as it may determine, conditioned upon the faithful performance of the duties required and the faithful accounting for all money and property coming into their hands, or under their control, by virtue of such office.

**Conduct of school.**

§ 8. The board of trustees shall cause said school to be conducted as may seem best calculated to carry out the intentions of this act. There shall be organized a course of study corresponding as far as practicable with the course of study in the public schools of the state. There shall also be provided in said school the proper facilities and equipment for vocational training such as domestic science, dressmaking, horticulture, agriculture and such business instruction as may be practicable for women, and such instruction and training given to each and every inmate committed to said school to the end that every inmate may, upon discharge, be qualified for honorable and profitable employment.

**Superintendent to reside at school.**

§ 9. The superintendent shall reside at the school and shall be furnished suitable quarters, furniture, food supplies, and laundry for herself and family. The board may make similar provision for such other officers and employees as the interests of the school may require to reside on the premises.

**Commitments.**

§ 10. The said school shall receive into its custody all girls who may be committed to it in accordance with law.

**Merit system. Parole.**

§ 11. There shall be established in said school a system of marking based upon merit or attainments and general conduct, by which any girl committed hereto may work out her way to parole and honorable discharge. When, in the opinion of the superintendent, a girl, according to the regulations, has earned the right to a parole, a reputable home or place of employment shall be provided for her, where she may be employed and earn an honorable living, and said superintendent shall then recommend her to the board for parole, which shall grant it if deemed for her welfare, under such conditions as the board may deem best. This parole shall continue until she has proved her ability for honorable self-support, whereupon she shall be discharged. Any girl, who, while on parole, violates the conditions thereof, may be returned to the school.

**Girls incapable of reformation.**

§ 12. Any girl committed to said school who, after due trial, is, in the opinion of the superintendent, incapable of reformation, or so morally deficient as to render her detention detrimental to the interests of said school, or who has misrepresented her age to the court which committed her, or has been previously convicted of a felony may be returned to the committing court, and said court may thereupon revoke the previous judgment committing her to said institution and resume proceedings where the same were suspended when such commitment was made.

**Aiding inmate to escape.**

Any person who knowingly permits or aids any inmate of the California School for Girls to escape therefrom or conceals her with the intent of enabling her to elude pursuit, shall be guilty of a misdemeanor. Any fugitive from said school, or from the parties with whom she has been placed on parole, may be arrested and returned to said school by any person, upon the written order of the superintendent thereof. [Enacted, Statutes 1917, p. 474. This supersedes § 13 of the act of 1913 but was given no section number in the act of 1917.]

### **Commission on location. Appropriation.**

§ 14. A commission consisting of the state engineer and four members to be appointed by the governor, is hereby created, and it shall, as soon as practicable, with the approval of the board of control, establish a location for said school, purchase a site therefor to consist of not less than one hundred acres of good agricultural land, and the state department of engineering shall, in conformity to law, erect, construct and equip the necessary buildings therefor. For the purposes of paying the expenses of the provisions incurred by this act there is hereby appropriated out of the state treasury the sum of two hundred thousand dollars, one-half of which shall be available immediately after this act becomes effective, and one-half available January 1, 1914.

### **Trustees to have control of girls' department at Whittier.**

§ 15. Immediately after this act becomes effective, or as soon thereafter as a majority of the persons appointed as trustees shall have qualified and organized the said board, it shall take possession of and assume the control and management of the girls' department of the Whittier State School, and the board of trustees of the Whittier State School shall turn over to the board of trustees of the California School for Girls hereby created, the custody and management of said girls' department, including the buildings now occupied by, and all property, records and papers now used by or belonging to said girls' department, or any of its inmates. When the said school for girls is located and the buildings constructed ready for occupancy, the board of trustees of said school for girls shall remove all girls from the said girls' department of the Whittier State School, whereupon all buildings and property, except such personal property as has been purchased for the express use of the girls, shall revert to the Whittier State School.

### **Controller's warrant.**

§ 16. The controller of the state is hereby directed on requisition of said board, duly audited by the state board of control, to draw his warrant on the state treasurer in favor of said board for any moneys duly appropriated to pay for the necessary expenditures in the establishment and maintenance of said school, and the said treasurer is directed to pay the same from the appropriations provided therefor.

### **Construction of act. Pay to inmates authorized.**

§ 17. This act shall be construed in conformity with the intent as well as the express provisions thereof, and shall confer upon the board authority to do all those lawful acts which it deems necessary to promote the prosperity of the school and the well being and education of its inmates, including the organization of trade schools, purchase of materials for use therein, the doing of all other things, not prohibited, which are required to carry out the purposes of this act. The board is further authorized to pay those committed to said school small weekly or monthly sums in lieu of clothing and other necessary articles, if in its judgment,

such a course would better promote discipline and training. Nothing herein contained however, shall permit said board to incur any indebtedness in excess of the appropriations allowed by law for the establishment of said school.

**Girls' department at Whittier superseded.**

§ 18. It is the purpose of this act that the school hereby established shall supersede and supplant the girls' department of the Whittier State School and that all commitments of girls authorized by law shall be made to the California School for Girls, but girls so committed shall be kept under the control of the said California School for Girls at the present girls' department of the Whittier State School until the school provided for by this act is ready for the reception of girls.

**PAROLE HEADQUARTERS FOR STATE SCHOOLS.**

*An act to provide for the establishing and maintaining of parole headquarters in connection with state schools and reformatories.*

[Approved June 16, 1913 ; Statutes 1913, p. 1034.]

§ 1. The board of trustees or other administrative body of any state reformatory or state school is hereby empowered and authorized to establish and maintain parole headquarters out of funds made available for their use and to pay rental and such incidental expenses as may be incurred in maintaining such headquarters and to advance money to any boy or girl who may now or hereafter be on furlough, parole or discharge from any such reformatory or state school, and to assist them in obtaining employment and in becoming established as useful and law-abiding members of society.



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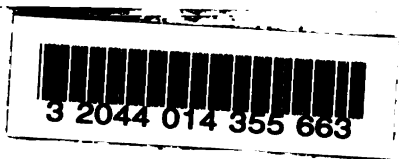








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